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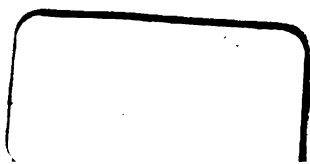
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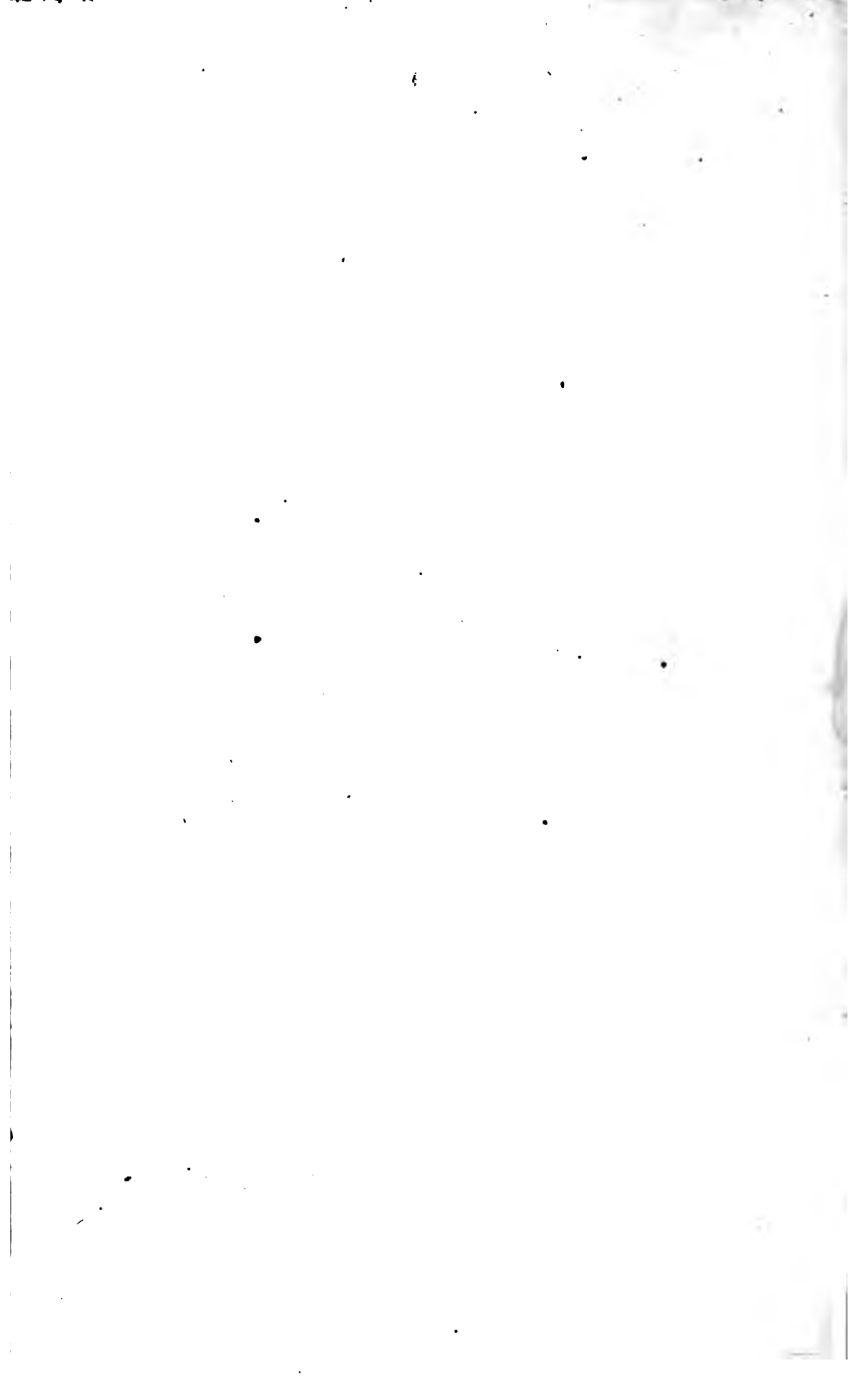
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SUPPLEMENT
California, 1877-8 and 1880.
TO THE
CODES AND STATUTES

OF

THE STATE OF CALIFORNIA;

BEING A COMPILATION

OF THE

AMENDMENTS AND STATUTES OF 1877-8 AND 1880.

BY

THEODORE H. HITTELL.

VOL. III.

BEING A SUPPLEMENT TO "HITTELL'S CODES AND STATUTES."

SAN FRANCISCO:
A. L. BANCROFT AND COMPANY,
LAW BOOK PUBLISHERS, BOOKSELLERS, AND STATIONERS.
1880.

L 7999

AUG 14 1933

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PREFACE.

The purpose of this book is to present, in as convenient a shape as practicable, all the legislation of a general nature since the publication in 1876 of "Hittell's Codes and Statutes." With this object in view, and for the reason that the work referred to is in general use throughout the State, the plan has been adopted of following the arrangement and using the paragraph numbers of that work—in other words, of making this in fact, what it purports to be, a "Supplement." With that work checked by this, the statutory law upon every matter of general importance may be readily ascertained. The same system also has been pursued of making references to all special and local legislation; so that the volume, besides giving the text of all general legislation, points out in a convenient manner where legislation of any kind is to be found.

It may not be improper to refer to the important character of the laws passed since 1876, and particularly to those passed since the adoption of the new constitution in May, 1879. That instrument, which, with a very copious index, is also here given, required a reformation of large portions of the Codes and the enactment of various new statutes, making material changes in our system and practice of government. What these changes are, in reference to any particular subject, can be easily seen by turning to the particular paragraph relating to it in the "Codes and Statutes," and then turning to the same paragraph in the "Supplement." If the paragraph is not in the "Supplement," it remains a portion of the law as published in the "Codes and Statutes."

Attention may here be called to the fact that, on account of the limited number of the State edition of the Amendments and Statutes of 1880, a separate edition of them, all in one volume, has been published by A. L. Bancroft & Co. As it seems likely that the latter edition will be in large use, reference is made throughout this volume to its paging, as well as to the paging of the State edition, for all the amendments and statutes of 1880.

Constitution of the State of California.

Adopted by the Convention, March 3, 1879.

Ratified by the People, May 7, 1879.

PREAMBLE AND DECLARATION OF RIGHTS.

PREAMBLE.

We, the people of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

ci. Inalienable rights.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

cii. Popular government.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

ciii. California an inseparable part of Union.

SEC. 3. The State of California is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

civ. Religious worship and liberty of conscience.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

cv. Habeas corpus.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

cvl. Bail—Excessive fines—Cruel and unusual punishments.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

cvi. Trial by jury.

SEC. 7. The right of trial by jury shall be secured to all; and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A

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trial by jury may be waived in all criminal cases not amounting to felony, by the consent of both parties, expressed in open court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.

civil. *Criminal prosecutions by information or indictment—Grand jury.*

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county.

cix. *Liberty of speech and of the press—Law of libel.*

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments founded on information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

cx. *Popular assemblies.*

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

cxl. *General laws to have uniform operation.*

SEC. 11. All laws of a general nature shall have a uniform operation.

cxli. *Military power—Quartering of soldiers.*

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

cxlii. *Rights of accused persons—Depositions in criminal cases.*

SEC. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. The legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

cxliv. *Private property taken for public use.*

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation

other than municipal until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury; unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law.

cxv. Imprisonment in civil cases.

SEC. 15. No person shall be imprisoned for debt in any civil action, on means or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of willful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

cxvi. Bills of attainder—Ex post facto laws—Laws impairing contracts.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

cxvii. Rights of foreigners.

SEC. 17. Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native-born citizens.

cxviii. Slavery.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

cxix. Seizures and search warrants.

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

cxx. Treason.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

cxxi. Special privileges and immunities.

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

cxxii. Constitutional provisions mandatory and prohibitory.

SEC. 22. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

cxxiii. Popular rights retained by people.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

cxxiv. No property qualification to vote or hold office.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

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ARTICLE II.

RIGHT OF SUFFRAGE.

CXXXV. *Who entitled to vote.*

SECTION 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privileges of an elector in this State.

CXXXVI. *Privileges of electors.*

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

CXXXVII. *Militia duty on election day.*

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

CXXXVIII. *Residence, when not gained or lost.*

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.

CXXXIX. *Ballot.*

SEC. 5. All elections by the people shall be by ballot.

ARTICLE III.

DISTRIBUTION OF POWERS.

CXXX. *Separation of departments.*

SECTION 1. The powers of the government of the State of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

CXXXI. *Senate and assembly—Enacting clause of laws.*

SECTION 1. The legislative power of this State shall be vested in a senate and assembly, which shall be designated The legislature of the State of California, and the enacting clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows."

CXXXII. *Sessions of legislature—Limitation of pay and for introduction of bills.*

SEC. 2. The sessions of the legislature shall commence at twelve o'clock m. on

the first Monday after the first day of January next succeeding the election of its members, and, after the election held in the year eighteen hundred and eighty, shall be biennial, unless the governor shall, in the interim, convene the legislature by proclamation. No pay shall be allowed to members for a longer time than sixty days, except for the first session after the adoption of this constitution, for which they may be allowed pay for one hundred days. And no bill shall be introduced, in either house, after the expiration of ninety days from the commencement of the first session, nor after fifty days after the commencement of each succeeding session, without the consent of two-thirds of the members thereof.

cxxxiii. *Election and terms of assemblymen.*

SEC. 3. Members of the assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the assembly, after the adoption of this constitution, shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter, members of the assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the legislature.

cxxxiv. *Election and terms of senators—Qualifications of senators and assemblymen.*

SEC. 4. Senators shall be chosen for the term of four years at the same time and places as members of the assembly, and no person shall be a member of the senate or assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

cxxxv. *Number of senators and assemblymen—Classes of senators.*

SEC. 5. The senate shall consist of forty members, and the assembly of eighty members, to be elected by districts, numbered as hereinafter provided. The seats of the twenty senators elected in the year eighteen hundred and eighty-two from the odd numbered districts shall be vacated at the expiration of the second year, so that one-half of the senators shall be elected every two years; provided, that all the senators elected at the first election under this constitution shall hold office for the term of three years.

cxxxvi. *Senatorial and assembly districts.*

SEC. 6. For the purpose of choosing members of the legislature, the State shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one senator, and each assembly district shall choose one member of assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty, in the same order, commencing at the northern boundary of the State, and ending at the southern boundary thereof. In the formation of such districts, no county, or city and county, shall be divided, unless it contain sufficient population within itself to form two or more districts; nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the congress of the United States in the year one thousand eight hundred and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the legislature shall, at its first

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session after each census, adjust such districts and re apportion the representation so as to preserve them as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, senators and assemblymen shall be elected by the districts according to the apportionment now provided for by law.

cxixvii. *Organization of legislative houses.*

SEC. 7. Each house shall choose its officers, and judge of the qualifications, and returns of its members.

cxixviii. *Quorum.*

SEC. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

cxixix. *Rules—Expulsions.*

SEC. 9. Each house shall determine the rule of its proceeding, and may, with the concurrence of two-thirds of all the members elected, expel a member.

cxli. *Journals.*

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journal.

cxlii. *Privileges of legislators.*

SEC. 11. Members of the legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

cxliii. *Vacancies.*

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the functions of the governor, shall issue writs of election to fill such vacancies.

cxliiii. *Open doors.*

SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

cxliv. *Adjournments—Pay during recess.*

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either house draw pay for any recess or adjournment for a longer time than three days.

cxlv. *Manner of passing laws—Printing—Origination of bills—Reading and vote on final passage.*

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each house, unless, in case of urgency, two thirds of the house where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either house, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the journal; and no bill shall

become a law without the concurrence of a majority of the members elected to each house.

cxlvi. Governor's approval—Passage of bills notwithstanding governor's objections.

SEC. 16. Every bill which may have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter such objections upon the journal and proceed to reconsider it. If, after such reconsideration, it again pass both houses, by yeas and nays, two thirds of the members elected to each house voting therefor, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the governor, within ten days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect unless passed over the governor's veto, as hereinbefore provided. If the legislature be in session, the governor shall transmit to the house in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the governor.

cxlvii. Impeachments.

SEC. 17. The assembly shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members elected.

cxlviii. Officers liable to impeachment—Judgment.

SEC. 18. The governor, lieutenant-governor, secretary of state, controller, treasurer, attorney-general, surveyor-general, chief justice and associate justices of the supreme court, and judges of the superior courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State: but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the legislature may provide.

cxlix. Disabilities of legislators.

SEC. 19. No senator or member of assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which have been increased, during such term, except such offices as may be filled by election by the people.

cl. Ineligibility to office.

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State;

provided, that officers in the militia, who receive no annual salary, local officers, or postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

clii. Embezzlement and defalcation of public funds.

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

cliii. Public moneys, appropriations, and accounts.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the controller; and no money shall ever be appropriated or drawn from the State treasury for the use or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State; provided, that notwithstanding anything contained in this or any other section of this constitution, the legislature shall have the power to grant aid to institutions conducted for the support and maintenance of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; provided further, that the State shall have, at any time, the right to inquire into the management of such institutions; provided further, that whenever any county, or city and county, or city, or town shall provide for the support of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the legislature.

cliiii. Compensation of legislators.

SEC. 23. The members of the legislature shall receive for their services a per diem and mileage, to be fixed by law, and paid out of the public treasury; such per diem shall not exceed eight dollars, and such mileage shall not exceed ten cents per mile, and for contingent expenses not exceeding twenty-five dollars for each session. No increase in compensation or mileage shall take effect during the term for which the members of either house shall have been elected, and the pay of no attache shall be increased after he is elected or appointed.

cliv. Titles of acts—Amendment of statutes.

SEC. 24. Every act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in its title, such act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the act revised or section amended shall be re-enacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

clv. Local and special legislation.

SEC. 25. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

First—Regulating the jurisdiction and duties of justices of the peace, police judges, and of constables.

Second—For the punishment of crimes and misdemeanors.

Third—Regulating the practice of courts of justice.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the state.

Eighth—Summoning and impaneling grand and petit juries, and providing for their compensation.

Ninth—Regulating county and township business, or the election of county and township officers.

Tenth—For the assessment or collection of taxes.

Eleventh—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

Twelfth—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Thirteenth—Extending the time for the collection of taxes.

Fourteenth—Giving effect to invalid deeds, wills, or other instruments.

Fifteenth—Refunding money paid into the state treasury.

Sixteenth—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this state, or to any municipal corporation therein.

Seventeenth—Declaring any person of age, or authorizing any minor to sell, lease, or incur his or her property.

Eighteenth—Legalizing, except as against the state, the unauthorized or invalid act of any officer.

Nineteenth—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

Twentieth—Exempting property from taxation.

Twenty-first—Changing county seats.

Twenty-second—Restoring to citizenship persons convicted of infamous crimes.

Twenty-third—Regulating the rate of interest on money.

Twenty-fourth—Authorizing the creation, extension, or impairing of liens.

Twenty-fifth—Chartering or licensing ferries, bridges, or roads.

Twenty-sixth—Remitting fines, penalties, or forfeitures.

Twenty-seventh—Providing for the management of common schools.

Twenty-eighth—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

Twenty-ninth—Affecting the fees or salary of any officer.

Thirtieth—Changing the law of descent or succession.

Thirty-first—Authorizing the adoption or legitimation of children.

Thirty-second—For limitation of civil or criminal actions.

Thirty-third—In all other cases where a general law can be made applicable.

clvi. Lotteries—Sales of stock.

SEC. 26. The legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery. The legislature shall pass laws to regulate or prohibit the buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange, or stock market under the control of any association. All contracts for the sale of shares of the capital stock of any corporation or association, on margin or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered by the party paying it by suit in any court of competent jurisdiction.

clvii. Congressional districts.

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more congressmen; but the legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district, shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts, no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

clviii. Legislative elections.

SEC. 28. In all elections by the legislature the members thereof shall vote *viva voce*, and the votes shall be entered on the journal.

clix. General appropriation bill.

SEC. 29. The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of the State officers, the expenses of the government, and of the institutions under the exclusive control and management of the State.

clx. Appropriations for religious or sectarian purposes.

SEC. 30. Neither the legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the legislature granting aid pursuant to section twenty-two of this article.

clxi. *Public credit and money not to be given, loaned, or pledged.*

SEC. 31. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

clxii. *Extra compensation and claims.*

SEC. 32. The legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

clxiii. *Telegraph and gas charges—Storage and wharfage.*

SEC. 33. The legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

clxiv. *Special appropriation bills to contain but one item.*

SEC. 34. No bill making an appropriation of money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

clxv. *Lobbying and bribery of legislators.*

SEC. 35. Any person who seeks to influence the vote of a member of the legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the legislature to provide by law for the punishment of this crime. Any member of the legislature who shall be influenced in his vote or action upon any matter pending before the legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his

vote or action as a member of the legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

ARTICLE V.

EXECUTIVE DEPARTMENT.

clxvi. *Governor.*

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of California.

clxvii. *Election and term.*

SEC. 2. The governor shall be elected by the qualified electors at the time and places of voting for members of the assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.

clxviii. *Qualifications.*

SEC. 3. No person shall be eligible to the office of governor who has not been a citizen of the United States, and a resident of this State, five years next preceding his election, and attained the age of twenty-five years at the time of such election.

clxix. *Returns of election.*

SEC. 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the assembly, who shall, during the first week of the session, open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but, in case any two or more have an equal and the highest number of votes, the legislature shall, by joint vote of both houses, choose one of such persons so having an equal and the highest number of votes for governor.

clxx. *Commander-in-chief.*

SEC. 5. The governor shall be commander-in-chief of the militia, the army and navy of this State.

clxxi. *Executive business.*

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

clxxii. *Execution of laws.*

SEC. 7. He shall see that the laws are faithfully executed.

clxxiii. *Filling of vacancies.*

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and law for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislature, or at the next election by the people.

clxxiv. *Special sessions of legislature.*

SEC. 9. He may, on extraordinary occasions, convene the legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those

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specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto.

clxxv. *Executive messages.*

SEC. 10. He shall communicate by message to the legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

clxxvi. *Adjournment of legislature.*

SEC. 11. In case of a disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper; provided, it be not beyond the time fixed for the meeting of the next legislature.

clxxvii. *Disabilities.*

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of governor except as hereinafter expressly provided.

clxxviii. *Seal of State.*

SEC. 13. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of California."

clxxix. *Grants and commissions.*

SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of State.

clxxx. *Lieutenant-governor.*

SEC. 15. A lieutenant-governor shall be elected at the same time and places, and in the same manner, as the governor; and his term of office and his qualifications of eligibility shall also be the same. He shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president pro tempore of the senate shall act as governor until the vacancy be filled or the disability shall cease. The lieutenant-governor shall be disqualified from holding any other office, except as specially provided in this constitution, during the term for which he shall have been elected.

clxxxi. *When duties of governor to devolve on lieutenant-governor.*

SEC. 16. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of any military force thereof, he shall continue commander-in-chief of all the military force of the State.

clxxxii. *Other state officers.*

SEC. 17. A secretary of State, a controller, a treasurer, an attorney-general, and a surveyor-general shall be elected at the same time and places, and in the same manner as the governor and lieutenant-governor, and their terms of office shall be the same as that of the governor.

clxxxiii. Secretary of State.

Sec. 18. The secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as may be assigned him by law.

clxxxiv. Salaries of State officers.

Sec. 19. The governor, lieutenant-governor, secretary of State, controller, treasurer, attorney-general, and surveyor-general shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers for the two terms next ensuing the adoption of this constitution, as follows: governor, six thousand dollars per annum; lieutenant-governor, the same per diem as may be provided by law for the speaker of the assembly, to be allowed only during the session of the legislature; the secretary of state, controller, treasurer, attorney-general, and surveyor-general, three thousand dollars each per annum, such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during their respective terms of office; provided, however, that the legislature, after the expiration of the terms hereinbefore mentioned, may, by law, diminish the compensation of any or all of such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this constitution. No salary shall be authorized by law for clerical service in any office provided for in this article exceeding sixteen hundred dollars per annum for each clerk employed. The legislature may, in its discretion, abolish the office of surveyor-general; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

clxxxv. Governor not to be elected United States senator.

Sec. 20. The governor shall not during his term of office be elected a senator to the senate of the United States.

ARTICLE VI.

JUDICIAL DEPARTMENT.

clxxxvi. Judicial power.

SECTION 1. The judicial power of the State shall be vested in the senate sitting as a court of impeachment, in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may establish in any incorporated city or town, or city and county.

clxxxvii. Supreme court.

Sec. 2. The supreme court shall consist of a chief justice and six associate justices. The court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The chief justice shall assign three of the associate justices to each department, and such assignment may be changed by him from time to time. The associate justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the chief justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in re-

lation to the court in bank. The presence of three justices shall be necessary to transact any business in either of the departments, except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment. The chief justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two associate justices, and if so made, it shall have the effect to vacate and set aside the judgment. Any four justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited, the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the chief justice, in writing, with the concurrence of two associate justices. The chief justice may convene the court in bank at any time, and shall be the presiding justice of the court when so convened. The concurrence of four justices present at the argument shall be necessary to pronounce a judgment in bank; but if four justices, so present, do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four judges shall be necessary. In the determination of causes, all decisions of the court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The chief justice may sit in either department, and shall preside when so sitting, but the justices assigned to each department shall select one of their number as presiding justice. In case of the absence of the chief justice from the place at which the court is held, or his inability to act, the associate justices shall select one of their own number to perform the duties and exercise the powers of the chief justice during such absence or inability to act.

clxxxviii. *Election and terms of supreme court justices.*

SEC. 3. The chief justice and the associate justices shall be elected by the qualified electors of the State at large at the general State elections, at the times and places at which State officers are elected; and the term of office shall be twelve years, from and after the first Monday after the first day of January next succeeding their election; provided, that the six associate justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the court in bank, signed by them, and a duplicate thereof shall be filed in the office of the secretary of State. If a vacancy occur in the office of a justice, the governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election, and the justice so elected shall hold the office for the remainder of the unexpired term. The first election of the justices shall be at the first general election after the adoption and ratification of this constitution.

clxxxix. *Jurisdiction of supreme court.*

SEC. 4. The supreme court shall have appellate jurisdiction in all cases in equity, except such as arise in justices' courts; also, in all cases at law which

involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in cases of forcible entry and detainer, and in proceedings in insolvency, and in actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law; also, in all criminal cases prosecuted by indictment, or information in a court of record on questions of law alone. The court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any superior court of the State, or before any judge thereof.

cxco. Jurisdiction of superior courts.

SEC. 5. The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for. And said court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof affected by such action or actions, is situated. Said courts, and their judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

cxci. Superior courts—Election and terms of judges.

SEC. 6. There shall be in each of the organized counties, or cities and counties of the State, a superior court, for each of which at least one judge shall be elected by the qualified electors of the county, or city and county, at the general State election; provided, that until otherwise ordered by the legislature, only one judge shall be elected for the Counties of Yuba and Sutter, and that in the City and County of San Francisco there shall be elected twelve judges of the superior court, any one or more of whom may hold court. There may be as many sessions of said court, at the same time, as there are judges thereof. The said judges shall choose from their own number a presiding judge, who may be removed at their pleasure. He shall distribute the business of the court among the judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the superior court, held by any one

or more of the judges of said court respectively, shall be equally effectual as if all the judges of said respective courts presided at such session. In each of the Counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda, there shall be elected two such judges. The term of office of judges of the superior courts shall be six years from and after the first Monday of January next succeeding their election; provided, that the twelve judges of the superior court, elected in the City and County of San Francisco at the first election held under this constitution, shall, at their first meeting, so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the court, signed by them, and a duplicate thereof filed in the office of the secretary of State. The first election of judges of the superior courts shall take place at the first general election held after the adoption and ratification of this constitution. If a vacancy occur in the office of judge of a superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

cxci. *Sessions of superior courts.*

SEC. 7. In any county, or city and county, other than the City and County of San Francisco, in which there shall be more than one judge of the superior court, the judges of such court may hold as many sessions of said court at the same time as there are judges thereof, and shall apportion the business among themselves as equally as may be.

cxcii. *Superior courts by judges of other counties—Judges pro tempore.*

SEC. 8. A judge of any superior court may hold a superior court in any county, at the request of a judge of the superior court thereof, and upon the request of the governor it shall be his duty so to do. But a cause in a superior court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the court, and sworn to try the cause.

cxci. *Absence of judicial officers—Increase or reduction of number of judges.*

SEC. 9. The legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The legislature of the State may at any time, two thirds of the members of the senate and two thirds of the members of the assembly voting therefor, increase or diminish the number of judges of the superior court in any county, or city and county, in the State; provided, that no such reduction shall affect any judge who has been elected.

cxcv. *Removal of justices, judges, and judicial officers.*

SEC. 10. Justices of the supreme court, and judges of the superior courts, may be removed by concurrent resolution of both houses of the legislature, adopted by a two thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the senate on the recommendation of the governor, but no removal shall be made by virtue of this section, unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him, and shall have

had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the journal.

cxcvi. *Justices of the peace.*

Sec. 11. The legislature shall determine the number of justices of the peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties, and responsibilities of justices of the peace; provided, such powers shall not in any case trench upon the jurisdiction of the several courts of record, except that said justices shall have concurrent jurisdiction with the superior courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of the liens nor the value of the property amounts to three hundred dollars.

cxcvii. *Courts of record.*

Sec. 12. The supreme court, the superior courts, and such other courts as the legislature shall prescribe, shall be courts of record.

cxcviii. *Jurisdiction of inferior courts.*

Sec. 13. The legislature shall fix by law the jurisdiction of any inferior courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof.

cxclx. *Clerk of supreme court—County clerks—Court commissioners.*

Sec. 14. The legislature shall provide for the election of a clerk of the supreme court, and shall fix by law his duties and compensation, which compensation shall not be increased or diminished during the term for which he shall have been elected. The county clerks shall be ex-officio clerks of the courts of record in and for their respective counties, or cities and counties. The legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

cc. *Fees and perquisites.*

Sec. 15. No judicial officer, except justices of the peace and court commissioners, shall receive to his own use any fees or perquisites of office.

cci. *Publication of opinions of supreme court.*

Sec. 16. The legislature shall provide for the speedy publication of such opinions of the supreme court as it may deem expedient, and all opinions shall be free for publication by any person.

ccii. *Salaries of supreme court justices and superior court judges.*

Sec. 17. The justices of the supreme court and judges of the superior court shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished after their election, nor during the term for which they shall have been elected. The salaries of the justices of the supreme court shall be paid by the State. One half of the salary of each superior judge shall be paid by the State; the other half thereof shall be paid by the county for which he is elected. During the term of the first judges elected under this constitution, the annual salaries of the justices of the supreme court shall be six thousand dollars each. Until

otherwise changed by the legislature, the superior court judges shall receive an annual salary of three thousand dollars each, payable monthly, except the judges of the City and County of San Francisco, and the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada, and Sonoma, which shall receive four thousand dollars each.

cciii. Disabilities of supreme court justices and superior court judges.

Sec. 18. The justices of the supreme court and judges of the superior courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

cciv. Charges to justices.

Sec. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

ccv. Style of process.

Sec. 20. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

ccvi. Reporter of supreme court decisions.

Sec. 21. The justices shall appoint a reporter of the decisions of the supreme court, who shall hold his office and be removable at their pleasure. He shall receive an annual salary not to exceed twenty-five hundred dollars, payable monthly.

ccvii. Judges not to practice law.

Sec. 22. No judge of a court of record shall practice law in any court of this State during his continuance in office.

ccviii. Eligibility to judicial office.

Sec. 23. No one shall be eligible to the office of justice of the supreme court, or to the office of judge of a superior court, unless he shall have been admitted to practice before the supreme court of the state.

ccix. Judges' Affidavits.

Sec. 24. No judge of a superior court nor of the supreme court shall, after the first day of July, one thousand eight hundred and eighty, be allowed to draw or receive any monthly salary, unless he shall take and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains undecided that has been submitted for decision for the period of ninety days.

ARTICLE VII.

PARDONING POWER.

ccx. Reprieves and pardons.

SECTION 1. The governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the governor shall have power to suspend the execution of the sentence until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The governor shall communicate to the legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence,

its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the governor nor the legislature shall have power to grant pardons or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the judges of the supreme court.

ARTICLE VIII.

MILITIA.

ccxi. *Organization and discipline—Officers—Power to call one.*

SECTION 1. The legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the legislature shall, from time to time direct, and shall be commissioned by the governor. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

ccxii. *Flags, banners, and devices.*

SEC. 2. All military organizations provided for by this constitution, or any law of this State, and receiving State support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.

ARTICLE IX.

EDUCATION.

ccxiii. *Duty of legislature.*

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

ccxiv. *Superintendent of public instruction.*

SEC. 2. A superintendent of public instruction shall, at each gubernatorial election after the adoption of this constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

ccxv. *Superintendents of schools.*

SEC. 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; provided, that the legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting.

ccxvi. *School fund.*

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new States under an act of congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted, or may have been granted, by congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together

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with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

ccxvii. *Common school system.*

SEC. 5. The legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

ccxviii. *Kinds of schools—Application of State school fund and tax.*

SEC. 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the legislature, or by municipal or district authority; but the entire revenue derived from the State school fund, and the State school tax, shall be applied exclusively to the support of primary and grammar schools.

ccxix. *Text-books.*

SEC. 7. The local boards of education, and the boards of supervisors, and county superintendents of the several counties which may not have county boards of education, shall adopt a series of text-books for the use of the common schools within their respective jurisdictions; the text-books so adopted shall continue in use for not less than four years; they shall also have control of the examination of teachers, and the granting of teachers' certificates within their several jurisdictions.

ccxx. *Sectarianism.*

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

ccxxi. *University.*

SEC. 9. The university of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments, and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its regents, and in the administration of its affairs; provided, that all the moneys derived from the sale of the public lands donated to this State by act of congress, approved July second, eighteen hundred and sixty-two (and the several acts amendatory thereof), shall be invested as provided by said acts of congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one college of agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said acts of congress; and the legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappro-

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priated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the university on account of sex.

ARTICLE X.

STATE INSTITUTIONS AND PUBLIC BUILDINGS.

ccxxii. *State board of prison directors.*

SECTION 1. There shall be a State board of prison directors, to consist of five persons, to be appointed by the governor, with the advice and consent of the senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurring before the expiration of a term, shall hold office only for the unexpired term of his predecessor. The governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

ccxxiii. *Powers and duties.*

SEC. 2. The board of directors shall have the charge and superintendence of the State prisons, and shall possess such powers, and perform such duties, in respect to other penal and reformatory institutions of the State, as the legislature may prescribe.

ccxxiv. *Wardens, clerks, and other officers of prisons.*

SEC. 3. The board shall appoint the warden and clerk, and determine the other necessary officers of the prisons. The board shall have power to remove the wardens and clerks for misconduct, incompetency, or neglect of duty. All other officers and employes of the prisons shall be appointed by the warden thereof, and be removed at his pleasure.

ccxxv. *Expenses of directors.*

SEC. 4. The members of the board shall receive no compensation other than, reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the legislature may direct.

ccxxvi. *Duty of legislature.*

SEC. 5. The legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the board, wardens, and clerks, and to carry into effect the provisions of this article.

ccxxvii. *Convict labor.*

SEC. 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the legislature shall, by law, provide for the working of convicts for the benefit of the State.

ARTICLE XI.

CITIES, COUNTIES, AND TOWNS.

ccxxviii. *Counties.*

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

ccxxix. *Removal of county seats.*

SEC. 2. No county seat shall be removed unless two-thirds of the qualified

electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

ccxxx. *Creation of new counties.*

SEC. 3. No new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand; nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken.

ccxxxi. *County government—Township organization.*

SEC. 4. The legislature shall establish a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws.

ccxxxii. *County officers.*

SEC. 5. The legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of boards of supervisors, sheriffs, county clerks, district attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and for this purpose may classify the counties by population; and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession.

ccxxxiii. *Municipal corporations.*

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, shall be subject to and controlled by general laws.

ccxxxiv. *Consolidated city and county government.*

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or not prohibited to cities, shall be applicable to such consolidated government. In consolidated city and county governments, of more than one hundred thou-

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sand population, there shall be two boards of supervisors, or houses of legislation, one of which, to consist of twelve persons, shall be elected by general ticket from the city and county at large, and shall hold office for the term of four years, but shall be so classified that after the first election only six shall be elected every two years; the other, to consist of twelve persons, shall be elected every two years, and shall hold office for the term of two years. Any vacancy occurring in the office of supervisor, in either board, shall be filled by the mayor or other chief executive officer.

ccxxxv. *City charter.*

SEC. 8. Any city containing a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of such city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board, or a majority of them, and returned, one copy thereof to the mayor, or other chief executive officer of such city, and the other to the recorder of deeds of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city for at least twenty days, and within not less thirty days after such publication it shall be submitted to the qualified electors of such city at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the legislature for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each house, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the mayor, or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them, shall be made in duplicate and deposited, one in the office of the secretary of State, the other, after being recorded in the office of the recorder of deeds of the county, among the archives of the city; all courts shall take judicial notice thereof. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three-fifths of the qualified electors voting thereat, and approved by the legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

ccxxxvi. *Salaries not to be increased, nor terms extended.*

SEC. 9. The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

ccxxvii. *Taxes for State purposes.*

SEC. 10. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for state purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

ccxxviii. *Local regulations.*

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

ccxxix. *Legislature not to impose county or municipal taxes.*

SEC. 12. The legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

ccxli. *Special commissions for county or municipal purposes.*

SEC. 13. The legislature shall not delegate to any special commission, private corporation, company, association, or individual, any power to make, control, appropriate, supervise, or in any way interfere with, any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

ccxli. *Inspection offices.*

SEC. 14. No State office shall be continued or created in any county, city, town, or other municipality, for the inspection, measurement, or graduation of any merchandise, manufacture, or commodity; but such county, city, town, or municipality may, when authorized by general law, appoint such officers.

ccxlii. *Private property not liable for public debt.*

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

ccxliii. *County and municipal taxes and assessments to be paid into treasury.*

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the treasurer, or other legal depository, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

ccxliv. *Unauthorized use of public money, felony.*

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

ccxlv. *Restriction upon county and municipal indebtedness.*

SEC. 18. No county, city, town, township, board of education, or school district, shall incur indebtedness or liability in any manner, or for any purpose, exceeding in any year the income and revenue provided for it for such year, without the assent of two thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual

tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void.

ccxlv. *Street work in cities.*

SEC. 19. No public work or improvement of any description whatsoever shall be done or made, in any city, in, upon, or about the streets thereof, or otherwise, the cost and expense of which is made chargeable or may be assessed upon private property by special assessment, unless an estimate of such cost and expense shall be made, and an assessment, in proportion to benefits, on the property to be affected or benefited, shall be levied, collected, and paid into the city treasury before such work or improvement shall be commenced, or any contract for letting or doing the same authorized or performed. In any city where there are no public works owned and controlled by the municipality, for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this State, shall, under the direction of the superintendent of streets, or other officer in control thereof, and under such general regulations as the municipality may prescribe for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gas-light or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof.

ARTICLE XII.

CORPORATIONS.

ccxlvii. *Corporations to be formed under general laws.*

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act. All laws now in force in this State concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed.

ccxlviii. *Dues to be secured.*

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

ccxlix. *Individual liability of stockholders—Liability of directors.*

SEC. 3. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred, during the time he was a stockholder, as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock, or shares of the corporation or association. The directors or trustees of corporations and joint-stock associations shall be jointly and severally liable to the creditors and stockholders for all moneys embezzled or misappropriated by the officers of such corporation, or joint-stock association, during the term of office of such director or trustee.

ccl. *Powers and privileges.*

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all

corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

ccli. Banks and bank circulation.

SEC. 5. The legislature shall have no power to pass any act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

cclii. Unused charters, franchises, and privileges.

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and *bona fide* organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

ccliii. Extension of franchises and charters.

SEC. 7. The legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.

ccliv. Eminent domain over property and franchises.

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

cclv. Business and real estate.

SEC. 9. No corporation shall engage in any business other than that expressly authorized in its charter, or the law under which it may have been or may hereafter be organized; nor shall it hold for a longer period than five years any real estate except such as may be necessary for carrying on its business.

cclvi. Leases and alienation of franchises.

SEC. 10. The legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

cclvii. Stock and bonds.

SEC. 11. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, at a meeting called for that purpose, giving sixty days' public notice, as may be provided by law.

cclviii. Voting rights of stockholders.

SEC. 12. In all elections for directors or managers of corporations every stockholder shall have the right to vote, in person or by proxy, the number of shares of stock owned by him for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares

of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner, except that members of co-operative societies formed for agricultural, mercantile, and manufacturing purposes, may vote on all questions affecting such societies in manner prescribed by law.

cclix. *State loans and subscriptions.*

SEC. 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation.

cclx. *Office and books.*

SEC. 14. Every corporation other than religious, educational, or benevolent, organized or doing business in this State, shall have and maintain an office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for inspection by every person having an interest therein, and legislative committees, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of stock; the amount of its assets and liabilities, and the names and place of residence of its officers.

cclxi. *Foreign corporations.*

SEC. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

cclxii. *Where corporations to be sued.*

SEC. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the court to change the place of trial as in other cases.

cclxiii. *Transportation companies—Railroads, intersecting, connecting, or crossing.*

SEC. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each the others passengers, tonnage, and cars, without delay or discrimination.

cclxiv. *Railroad and canal company officers and employes.*

SEC. 18. No president, director, officer, agent, or employé of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

cclxv. *Free passes and discounted tickets.*

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket by

a member of the legislature or any public officer, other than railroad commissioner, shall work a forfeiture of his office.

cclxvi. *Combinations of common carriers—Reduced railroad rates.*

SEC. 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of passengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

cclxvii. *Discrimination in transportation charges or facilities.*

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State, or coming from or going to any other State. Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

cclxviii. *Railroad commissioners.*

SEC. 22. The State shall be divided into three districts as nearly equal in population as practicable, in each of which one railroad commissioner shall be elected by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Monday after the first day of January next succeeding their election. Said commissioners shall be qualified electors of this State and of the district from which they are elected; and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney, or employé; and the act of a majority of said commissioners shall be deemed the act of said commission. Said commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies, and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpoenas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as courts of record, and enforce their decisions and correct abuses through the medium of the courts. Said commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system pre-

scribed by the commission, shall be fined not exceeding twenty thousand dollars for each offense, and every officer, agent, or employé of any such corporation or company who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not exceeding five thousand dollars, or be imprisoned in the county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the judge or jury, recover exemplary damages. Said commission shall report to the governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies. The legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The legislature shall have power, by a two-thirds vote of all the members elected to each house, to remove any one or more of said commissioners from office, for dereliction of duty, or corruption, or incompetency; and whenever, from any cause, a vacancy in office shall occur in said commission, the governor shall fill the same by the appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

cclxix. *Railroad districts.*

SEC. 23. Until the legislature shall district the State, the following shall be the railroad districts: The first district shall be composed of the counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba, from which one railroad commissioner shall be elected. The second district shall be composed of the counties of Marin, San Francisco, and San Mateo, from which one railroad commissioner shall be elected. The third district shall be composed of the counties of Alameda, Contra Costa, Fresno, Inyo, Kern, Los Angeles, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, from which one railroad commissioner shall be elected.

cclxx. *Duty of legislature.*

SEC. 24. The legislature shall pass all laws necessary for the enforcement of the provisions of this article.

ARTICLE XIII.

REVENUE AND TAXATION.

cclxxi. *Taxable property.*

SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that growing crops, property used exclusively for public

schools, and such as may belong to the United State, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The legislature may provide, except in the case of credits secured by mortgage or trust deed, for a reduction from credits or debts due to *bona fide* residents of this State.

cclxxii. *Lands and improvements, how assessed.*

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

cclxxiii. *Assessment of lands in sections or small tracts.*

SEC. 3. Every tract of land containing more than six hundred and forty acres, and which has been sectionized by the United States government, shall be assessed for the purposes of taxation, by sections or fractions of sections. The legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States government.

cclxxiv. *Mortgages and securities.*

SEC. 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad and other quasi public corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof; provided, that if any such security or indebtedness shall be paid by any such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

cclxxv. *Contracts to pay mortgage tax.*

SEC. 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

cclxxvi. *Power of taxation not to be surrendered or suspended.*

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

cclxxvii. *Payment of taxes by installments.*

SEC. 7. The legislature shall have the power to provide by law for the payment of all taxes on real property by installments.

cclxxviii. *Sworn statements.*

SEC. 8. The legislature shall by law require each taxpayer in this State to make and deliver to the county assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such tax-

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payer, or in his possession, or under his control, at twelve o'clock meridian, on the first Monday of March.

~~ccclxxix~~. *State and county boards of equalization.*

SEC. 9. A State board of equalization, consisting of one member from each congressional district in this State, shall be elected by the qualified electors of their respective districts at the general election to be held in the year one thousand eight hundred and seventy-nine, whose term of office after those first elected shall be four years, whose duty it shall be to equalize the valuation of the taxable property of the several counties in the State for the purposes of taxation. The controller of State shall be ex officio a member of the board. the boards of supervisors of the several counties of the State shall constitute boards of equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; provided, such State and county boards of equalization are hereby authorized and empowered, under such rules of notice as the county boards may prescribe, as to the county assessments, and under such rules of notice as the State board may prescribe, as to the action of the State board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll.

~~ccclxxx~~. *Assessment of railroads.*

SEC. 10. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, town, township, or district in which it is situated, in the manner prescribed by law. The franchise, roadway, road-bed, rails, and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State board of equalization, at their actual value, and the same shall be apportioned to the counties, cities and counties, cities, towns, townships, and districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships, and districts.

~~ccclxxxi~~. *Income taxes.*

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

~~ccclxxxii~~. *Poll tax.*

SEC. 12. The legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars on every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the State school fund.

~~ccclxxxiii~~. *Duty of legislature.*

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XIV.

WATER AND WATER RIGHTS.

~~ccclxxxiv~~. *Use and rates.*

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public

use, and subject to the regulation and control of the State, in the manner to be prescribed by law; provided, that the rates or compensation to be collected by any person, company, or corporation in this State for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed, annually, by the board of supervisors, or city and county, or city or town council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any board or body failing to pass the necessary ordinances or resolutions fixing water-rates, where necessary, within such time, shall be subject to peremptory process to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the legislature may prescribe. Any person, company, or corporation collecting water-rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and water-works of such person, company, or corporation to the city and county, or city or town where the same are collected, for the public use.

cclxxxv. Right to collect water rates a franchise.

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and can not be exercised except by authority of and in the manner prescribed by law.

ARTICLE XV.

HARBOR FRONTAGES, ETC.

cclxxxvi. Navigable water frontages.

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

cclxxxvii. Access to, and use of, navigable waters.

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

cclxxxviii. Tide lands.

SEC. 3. All tide lands within two miles of any incorporated city or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

ARTICLE XVI.

STATE INDEBTEDNESS.

cclxxxix. Restrictions on legislative powers.

SECTION 1. The legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion, or to suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly speci-

ecxxxix-cxciv CONSTITUTION OF THE STATE OF CALIFORNIA.

fied therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the state, for three months next preceding the election at which it is submitted to the people. The legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

ARTICLE XVII.

LAND, AND HOMESTEAD EXEMPTION.

ccxc. Homestead laws.

SECTION 1. The legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

ccxci. Unimproved lands in large tracts.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

ccxci. Cultivable lands for actual settlers.

SEC. 3. Lands belonging to this state, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

ARTICLE XVIII.

AMENDING AND REVISING THE CONSTITUTION.

ccxcii. Proposal of amendments—Submission to people.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly, and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their journals, with the yeas and nays taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of this constitution.

ccxciv. Constitutional convention.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to revise this constitution, they shall recommend to the electors to vote at the next general election for or against a convention for that purpose, and if a majority of the electors voting at such election on the proposition of a convention shall vote in favor thereof, the legisla-

ture shall, at its next session, provide by law for calling the same. The convention shall consist of a number of delegates not to exceed that of both branches of the legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the legislature. The delegates so elected shall meet within three months after their election at such place as the legislature may direct. At a special election to be provided for by law, the constitution that may be agreed upon by such convention shall be submitted to the people for their ratification or rejection, in such manner as the convention may determine. The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the state, who shall call to his assistance the controller, treasurer, and secretary of State, and compare the returns so certified to him; and it shall be the duty of the executive to declare, by his proclamation, such constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the constitution of the State of California.

ARTICLE XIX.

CHINESE.

cccxcv. *Regulations.*

SECTION 1. The legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof, from the burdens and evils arising from the presence of aliens who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and to provide the means and mode of their removal from the State upon failure or refusal to comply with such conditions; provided, that nothing contained in this section shall be construed to impair or limit the power of the legislature to pass such police laws or other regulations as it may deem necessary.

cccxcvi. *Corporations not to employ.*

SEC. 2. No corporation now existing or hereafter formed under the laws of this State, shall, after the adoption of this constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The legislature shall pass such laws as may be necessary to enforce this provision.

cccxcvii. *Employment on public work.*

SEC. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

cccxcviii. *Discouragement of immigration.*

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the legislature may prescribe. The legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this constitution. This section shall be enforced by appropriate legislation.

ARTICLE XX.

MISCELLANEOUS SUBJECTS.

ccxcix. *Seat of government.*

SECTION 1. The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general State election, under such regulations and provisions as the legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people.

ccc. *Dueling.*

SEC. 2. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this constitution.

cccl. *Official oath.*

SEC. 3. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

“I do solemnly swear or affirm, as the case may be, that I will support the constitution of the United States and the constitution of the State of California, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability.”

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

cccli. *New offices and officers.*

SEC. 4. All officers or commissioners whose election or appointment is not provided for by this constitution, and all officers or commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may direct.

ccclii. *Fiscal year.*

SEC. 5. The fiscal year shall commence on the first day of July.

ccclv. *Suits against State.*

SEC. 6. Suits may be brought against the State in such manner and in such courts as shall be directed by law.

cccv. *Marriages.*

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

cccvl. *Separate property.*

SEC. 8. All property, real and personal, owned by either husband or wife before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

cccvii. *Perpetuities.*

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.

cccviii. *Bribery.*

SEC. 10. Every person shall be disqualified from holding any office of profit

in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

cccix. *Disabilities of convicts—Protection of free suffrage.*

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

cccix. *Absence on public business.*

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

cccxi. *Plurality vote.*

SEC. 13. A plurality of the votes given at any election shall constitute a choice, where not otherwise directed in this constitution.

cccxi. *State board of health.*

SEC. 14. The legislature shall provide by law for the maintenance and efficiency of a State board of health.

cccxi. *Mechanics' liens.*

SEC. 15. Mechanics, material men, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

cccxiv. *Terms of office.*

SEC. 16. When the term of any officer or commissioner is not provided for in this constitution, the term of such officer or commissioner may be declared by law; and, if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years.

cccxv. *Hours of labor on public work.*

SEC. 17. Eight hours shall constitute a legal day's work on all public work.

cccxvi. *Sex no disqualification.*

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

cccxvii. *Constitutional convention expenses.*

SEC. 19. Nothing in this constitution shall prevent the legislature from providing, by law, for the payment of the expenses of the convention framing this constitution, including the per diem of the delegates for the full term thereof.

cccxviii. *Election years—Commencement of terms.*

SEC. 20. Elections of the officers provided for by this constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

ARTICLE XXI.

BOUNDARY.

cccix. *State boundary.*

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a south-easterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a north-westerly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

ARTICLE XXII.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

cccx. *Laws in force—Rights, claims, and contracts.*

SECTION 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this constitution had not been adopted. The provisions of all laws which are inconsistent with this constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the legislature.

cccx. *Obligations incurred—Fines and penalties due—Writs, actions, and indictments.*

SEC. 2. That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this constitution, to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this constitution.

cccx. *Change of courts—Transfer of causes.*

SEC. 3. All courts now existing, save justices' and police courts, are hereby

abolished; and all records, books, papers, and proceedings from such courts as are abolished by this constitution, shall be transferred on the first day of January, eighteen hundred and eighty, to the courts provided for in this constitution; and the courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

cccxxiii. *Publication of constitution—Election.*

SEC. 4. The superintendent of printing of the State of California shall, at least thirty days before the first Wednesday in May, A. D. eighteen hundred and seventy-nine, cause to be printed at the State printing-office, in pamphlet form, simply stitched, as many copies of this constitution as there are registered voters in this State, and mail one copy thereof to the post-office address of each registered voter; provided, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several postmasters of the State. The governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the boards of supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.

cccxxiv. *Printing and distribution of ballots.*

SEC. 5. The superintendent of printing of the state of California shall, at least twenty days before said election, cause to be printed and delivered to the clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the new Constitution." He shall likewise cause to be so printed and delivered to said clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the new Constitution." The secretary of state is hereby authorized and required to furnish the superintendent of state printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

cccxxv. *Registers, poll-books, and forms.*

SEC. 6. The clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the inspectors of elections, at each election precinct or polling place in their respective counties, suitable registers, poll-books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; provided, that the duties in this and the preceding section imposed upon the clerk of the respective counties shall, in the City and County of San Francisco, be performed by the registrar of voters for said city and county.

cccxxvi. *Voters.*

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the assembly in this State, shall be entitled to vote for the adoption or rejection of this constitution.

cccxvii-cccxix CONSTITUTION OF THE STATE OF CALIFORNIA.

cccxvii. Canvassing returns.

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new constitution; and the proceedings of said boards shall be the same as those prescribed for like boards in the case of an election for governor. Upon the completion of said canvass and returns, the said board shall immediately certify the same, in the usual form, to the governor of the State of California.

cccxviii. Proclamation.

SEC. 9. The governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the controller, treasurer, and secretary of State, open and compute all the returns received of votes cast for and against the new constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new constitution, the executive of this State shall, by his proclamation, declare such new constitution to be the constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified.

cccxix. Terms of officers first elected.

SEC. 10. In order that future elections in this State shall conform to the requirements of this constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen, after the adoption of this constitution, shall be elected at the time and in the manner now provided by law. Judicial officers and the superintendent of public instruction shall be elected at the time and in the manner that State officers are elected.

cccx. Laws relative to judicial system.

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this constitution until changed by legislation.

cccxli. Taking effect.

SEC. 12. This constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office, and the meeting of the legislature. In all other respects, and for all other purposes, this constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

J. P. HOGE, President.

Attest: EDWIN F. SMITH, Secretary.

A. R. ANDREWS,
 JAMES J. AYERS,
 CLITUS BARBOUR,
 EDWARD BARRY,
 JAMES N. BARTON,
 C. J. BEERSTECHEER,
 ISAAC S. BELCHER,
 PETER BELL,
 MARION BIGGS,
 E. T. BLACKMER,
 JOSEPH C. BROWN,
 SAM'L. B. BURT,
 JOSIAH BOUCHER,
 JAMES CAPLES,
 AUG. H. CHAPMAN,
 J. M. CHARLES,
 JOHN D. CONDON,
 C. W. CROSS,
 HAMLET DAVIS,
 JAS. E. DEAN,
 P. T. DOWLING,
 LUKE D. DOYLE,
 W. L. DUDLEY,
 JONATHAN M. DUDLEY,
 PRESLEY DUNLAP,
 JOHN EAGON,
 THOMAS H. ESTEY,
 HENRY EDGERTON,
 M. M. ESTEE,
 EDWARD EVEY,
 J. A. FILCHER,
 SIMON J. FARRELL,
 ABRAHAM CLARK FREEMAN,
 JACOB RICHARD FREUD,
 J. B. GARVEY,
 B. B. GLASSCOCK,
 JOSEPH C. GORMAN,
 W. P. GRACE,
 WILLIAM J. GRAVES,
 V. A. GREGG,
 JNO. S. HAGER,
 JOHN B. HALL,
 THOMAS HARRISON,
 JOEL A. HARVEY,
 T. D. HEISKELL,
 CONRAD HEROLD,

D. W. HERRINGTON,
 S. G. HILBORN,
 J. R. W. HITCHCOCK,
 J. E. HALE,
 VOLNEY E. HOWARD,
 SAM A. HOLMES,
 W. J. HOWARD,
 WM. PROCTOR HUGHEY,
 W. F. HUESTIS,
 G. W. HUNTER,
 DANIEL INMAN,
 GEORGE A. JOHNSON,
 L. F. JONES,
 PETER J. JOYCE,
 J. M. KELLEY,
 JAMES H. KEYES,
 JOHN J. KENNY,
 C. R. KLEINE,
 T. H. LAINE,
 HENRY LARKIN,
 R. M. LAMPSON,
 R. LAVIGNE,
 H. M. LA RUE,
 DAVID LEWIS,
 J. F. LINDOW,
 JNO. MANSFIELD,
 EDWARD MARTIN,
 J. WEST MARTIN,
 RUSH MCCOMAS,
 JOHN G. MCCALLUM,
 THOMAS MCCONNELL,
 JOHN MCCOY,
 THOMAS B. MCFARLAND,
 HIRAM MILLS,
 WM. S. MOFFATT,
 JOHN FLEMING MCNUTT,
 W. W. MORELAND,
 L. D. MORSE,
 JAMES E. MURPHY,
 EDMUND NASON,
 THORWALD KLAUDIUS NELSON,
 HENRY NEUNABER,
 CHAS. C. O'DONNELL,
 GEORGE OHLEYER,
 JAMES O'SULLIVAN,
 JAMES MARTIN PORTER,

WILLIAM H. PROUTY,
 M. R. C. PULLIAM,
 CHAS. F. REED,
 PATRICK REDDY,
 JNO. M. RHODES,
 JAS. S. REYNOLDS,
 HORACE C. ROLFE,
 CHAS. S. RINGGOLD,
 JAMES McM. SHAFTER,
 GEO. W. SCHELL,
 J. SCHOMP,
 RUFUS SHOEMAKER,
 E. O. SMITH,
 BENJ. SHURTLEFF,
 GEO. VENABLE SMITH,
 H. W. SMITH,
 JOHN C. STEDMAN,
 E. P. SOULE,
 D. C. STEVENSON,
 GEO. STEELE,
 CHAS. V. STUART,
 W. J. SWEASEY,
 CHARLES SWENSON,
 R. S. SWING,
 D. S. TERRY,
 S. B. THOMPSON,
 F. O. TOWNSEND,
 W. J. TINNIN,
 DANIEL TUTTLE,
 P. B. TULLY,
 H. K. TURNER,
 A. P. VACQUEREL,
 WALTER VAN DYKE,
 WM. VAN VOORHIES,
 HUGH WALKER,
 JNO. WALKER,
 BYRON WATERS,
 JOSEPH R. WELLER,
 J. V. WEBSTER,
 JOHN P. WEST,
 PATRICK M. WELLIN,
 JOHN T. WICKES,
 WM. F. WHITE,
 H. C. WILSON,
 JOS. W. WINANS,
 N. G. WYATT.

Amendments to the Political Code.

PRELIMINARY PROVISIONS.

10. *Holidays.*

Sec. 10. Holidays, within the meaning of this code, are: Every Sunday, the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the twenty-fifth day of December, every day on which an election is held throughout the state, and every day appointed by the president of the United States, or by the governor of this state, for a public fast, thanksgiving, or holiday. If the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, or the twenty-fifth day of December, fall upon a Sunday, the Monday following is a holiday. [*Amendment, approved April 9, 1880; Amendments, 1880, 49 (Ban. ed. 189); took effect immediately.*]

SENATORIAL DISTRICTS.

An Act to define the senatorial and assembly districts of this State, and to apportion the representation thereof.

Approved March 16, 1874; 1873-4, 266.

78. *Election of Assemblymen.*

Sec. 32. At a general election to be held in the year eighteen hundred and eighty, and every two years thereafter, members of the assembly shall be elected in the several districts and counties of the state, as is provided in this act. [*Amendment, approved February 7, 1880; 1880, 4 (Ban. ed. 5); took effect from passage.*]

JUDICIAL DISTRICTS.

125. *Laws relating to judicial districts repealed.*

[All of chapter four, from section one hundred and twenty-five to one hundred and forty-two, both included, and all other laws and parts of laws creating judicial districts in this state, defining the boundaries thereof, or providing terms of courts therein, were repealed by an act approved February 13, 1880; amendments, 1880, 1, (*Ban. ed. 5*); took effect from passage.]

LEGAL DISTANCES IN THE STATE.

157. *Contra Costa.*

Sec. 157. From the county seat of Contra Costa county to Sacramento, eighty-nine miles; to Napa, twenty-seven miles; to Stockton, one hundred and twenty-one miles; to San Quentin, forty-one miles. [*Amendment, approved March 14, 1878; Amendments 1877-8, 1; in force from passage.*]

181. *San Diego.*

Sec. 181. From the county seat of San Diego county to Sacramento, five hundred and sixty-six miles; to Napa, five hundred and twenty-one miles; to Stockton, five hundred and seventy-four miles; to San Quentin, four hundred

and ninety-four miles. [*Amendment, approved March 27, 1878; Amendments 1877-8, 1; in force from passage.*]

199. Tuolumne.

SEC. 199. From the county seat of Tuolumne county to Sacramento, one hundred miles; to Napa, one hundred and sixty-one miles; to Stockton, sixty-six miles; to San Quentin, one hundred and sixty-six miles. [*Amendment, approved February 15, 1878; Amendments 1877-8, 2; took effect sixtieth day after passage.*]

LEGISLATIVE OFFICERS.

235. Time and place of meeting.

SEC. 235. The legislature shall assemble at the seat of government at twelve o'clock m., on the first Monday after the first day of January, eighteen hundred

Naturalization Laws.

ed.

[The Revised Statutes of the United States (Title XXX, section 2165), adopted June 22, 1874, required the declaration of intention to become a citizen of the United States to be made before a court, etc. This provision was afterwards, in 1876, modified by an amendment, as follows:]

Declaration for naturalization, before whom taken.

An Act to amend the Revised Statutes relating to naturalization.

Approved February 1, 1876, U. S. Stats., Vol. XIX, p. 2.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

That the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in said section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts named in said section.

objections to one or more items, and upon reconsideration, such bill, or item, or items, pass both houses by the constitutional majority, the bill, or item, or items must be authenticated as having become a law by a certificate indorsed on or attached to the bill, or indorsed on or attached to the copy of the statement of objections, in the following form: "This bill having been returned by the governor with his objections thereto, and, after reconsideration, having passed both houses by the constitutional majority, has become a law this —

Amendments to the Political Code.

PRELIMINARY PROVISIONS.

10. *Holidays.*

twenty-one miles; to San Quentin, forty-one miles. [*Amendment, approved March 14, 1878; Amendments 1877-8, 1; in force from passage.*]

181. *San Diego.*

Sec. 181. From the county seat of San Diego county to Sacramento, five hundred and sixty-six miles; to Napa, five hundred and twenty-one miles; to Stockton, five hundred and seventy-four miles; to San Quentin, four hundred

and ninety-four miles. [*Amendment, approved March 27, 1878; Amendments 1877-8, 1; in force from passage.*]

199. Tuolumne.

SEC. 199. From the county seat of Tuolumne county to Sacramento, one hundred miles; to Napa, one hundred and sixty-one miles; to Stockton, sixty-six miles; to San Quentin, one hundred and sixty-six miles. [*Amendment, approved February 15, 1878; Amendments 1877-8, 2; took effect sixtieth day after passage.*]

LEGISLATIVE OFFICERS.

235. Time and place of meeting.

SEC. 235. The legislature shall assemble at the seat of government at twelve o'clock m., on the first Monday after the first day of January, eighteen hundred and eighty-one, and on the first Monday after the first day of January every two years thereafter. [*Amendment, approved April 9, 1880; Amendments 1880, 48 (Ban. ed. 153); took effect sixtieth day after passage.*]

266. Per diem and mileage of members.

SEC. 266. Members of the legislature shall receive eight dollars per day, payable weekly, during the session of the legislature, and ten cents per mile for each mile of travel to and from their residences and the place of holding the session. [*Amendment, approved April 9, 1880; Amendments 1880, 48 (Ban. ed. 153), took effect sixtieth day after passage.*]

267. Per diem and mileage of presiding officers.

SEC. 267. The speaker of the assembly shall receive the sum of ten dollars per diem during the session of the legislature, and the same mileage and sum for contingent expenses as members of the legislature. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

310. Approval of bills.

SEC. 310. When the governor approves a bill he must set his name thereto, with the date of his approval, and deposit the same in the office of the secretary of State. If any bill presented to the governor contains several items of appropriation of money, he may object to one or more items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor. If the legislature be in session, the governor shall transmit to the house in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the governor. [*Amendment, approved March 2, 1880; Amendments 1880, 3 (Ban. ed. 13); took effect immediately.*]

311. Bills returned without approval.

SEC. 311. When a bill has passed both houses of the legislature and is returned by the governor without his signature, and with objections thereto, or if it be a bill containing several items of appropriation of money, with objections to one or more items, and upon reconsideration, such bill, or item, or items, pass both houses by the constitutional majority, the bill, or item, or items must be authenticated as having become a law by a certificate indorsed on or attached to the bill, or indorsed on or attached to the copy of the statement of objections, in the following form: "This bill having been returned by the governor with his objections thereto, and, after reconsideration, having passed both houses by the constitutional majority, has become a law this —

day of —, A. D. —;” or, “The following items in the within statement (naming them) having, after reconsideration, passed both houses by the constitutional majority, have become a law this — day of —, A. D. —,” which indorsement, signed by the president of the senate and the speaker of the assembly, is a sufficient authentication thereof. Such bill or statement must then be delivered to the governor, and by him must be deposited with the laws in the office of the secretary of State. [*Amendment, approved March 2, 1880; Amendments 1880, 3 (Ban. ed. 13); took effect immediately.*]

332. When State officers, etc., are to report.

SEC. 332. All officers, boards of officers, commissioners, trustees, regents, and directors, required by law to make reports to the governor or legislature, except the controller of State, must send such reports to the governor before the first day of October, in the year eighteen hundred and eighty, and in every second year thereafter. The railroad commissioners must send their report to the governor annually on or before the first day of October. [*Amendment, approved April 23, 1880; Amendments, 1880, 83 (Ban. ed. 332); took effect from and after July 1, 1880.*]

333. Reports, printing of.

SEC. 333. The superintendent of State printing must print such reports before the last Monday in November next after the receipt thereof. [*Amendment, approved April 1, 1878; Amendments 1877-8, 6; took effect from passage; repealing all conflicting acts.*]

334. Number to be printed.

SEC. 334. There must be printed: Of the report of the secretary of State, twelve hundred copies; of the report of the controller of State, two thousand copies; of the report of the State treasurer, six hundred and fifty copies; of the report of the surveyor-general, two thousand five hundred copies; of the report of the superintendent of public instruction, four thousand five hundred copies; of the report of the attorney-general, one thousand copies; of the report of the adjutant-general, six hundred copies; of the report of the State librarian, six hundred copies; of the report of the fish commissioners, fifteen hundred copies; of the report of the directors, resident physician, visiting physicians of the insane asylum, twenty-five hundred copies; of the report of the directors of the State prison, eighteen hundred copies; of the report of the State board of harbor commissioners, twelve hundred copies; of the report of regents of the university, twelve hundred copies; of the report of the trustees of the asylum for the deaf, dumb and [the] blind, eight hundred copies; of the report of the State board of equalization, two thousand copies; of the report of the State board of health, one thousand copies; of the report of the commissioners to manage the Yosemite Valley and Mariposa Big Tree Grove, five hundred copies; of the report of the superintendent of State printing, seven hundred and fifty copies. [*Amendment, approved April 1, 1878; Amendments, 1877-8, 6; took effect from passage; repealing all conflicting acts.*]

335. Distribution of reports.

SEC. 335. The reports must be delivered by the superintendent of State printing as follows: To the governor, fifty copies of each report; to the State librarian, ten copies of each report; to the secretary of State, thirty copies of each report; to the superintendent of public instruction, two thousand copies of his report for distribution to school trustees and teachers, and for exchange with other States; to the surveyor-general, one thousand copies of his report for dis-

tribution to the county surveyors, assessors, and county clerks for the several counties, and for exchange with other States; to the adjutant-general, two hundred and fifty copies of his report, to be distributed at his discretion; to the attorney-general, one hundred copies of his report for distribution to the several district attorneys of the State; to the controller, two hundred copies of his report; to the secretary of State, two hundred copies of his report; to the State treasurer, two hundred copies of his report; to the State librarian, one hundred and fifty copies of his report; to the officers of each of the insane asylums, five hundred copies of their reports; to the directors of the State prison, one hundred copies of their report; to the regents of the university, three hundred copies of their report; to the trustees of the asylum for the deaf, dumb, and blind, three hundred copies of their report; to the fish commissioners, five hundred copies of their report; to the superintendent of State printing, two hundred copies of his report; to the State board of health, two hundred copies of their report; to the commissioners to manage the Yosemite Valley and the Mariposa Big Tree Grove, two hundred copies of their report. And the remaining copies thereof: One third to the order of [the] sergeant-at-arms of the senate, and two thirds to the order of the sergeant-at-arms of the assembly, to be by them distributed pro rata to the members of the senate and assembly next to convene. [*Amendment, approved April 1, 1878; Amendments 1877-8, 6; took effect from passage; repealing all conflicting acts.*]

EXECUTIVE OFFICERS.

343. *Designation and number of civil executive officers.*

SEC. 343. The number and designation of the civil executive officers are as follows: A governor; a private secretary for the governor, who is ex officio clerk of the board of examiners; an executive secretary for the governor; a lieutenant governor; a secretary of State; a deputy secretary of State; a book-keeper for the secretary of State; two recording clerks for the secretary of State; a controller; a deputy controller; a book-keeper for the controller; three clerks for the controller; a treasurer; a deputy treasurer; a clerk for the treasurer; an attorney-general; a deputy attorney-general; a surveyor-general, who shall be ex officio register of the State land-office; a deputy surveyor-general; one clerk for the surveyor-general; two clerks for the register; a superintendent of public instruction; a deputy for the superintendent of public instruction; one clerk for the superintendent of public instruction; a superintendent of State printing; an inspector of gas meters; a vaccine agent; a commissioner of immigration; an insurance commissioner; a deputy for the insurance commissioner; three State capitol commissioners; four port wardens for the port of San Francisco; a port warden for each port of entry except San Francisco; three State harbor commissioners; three harbor commissioners for the port of Eureka; six pilots for each harbor where there is no board of pilot commissioners; three members of the board of pilot commissioners for the ports of San Francisco, Mare Island, and Benicia; three members of the board of pilot commissioners for Humboldt Bay and Bar; three fish commissioners; a president and twelve directors of the State board of agriculture; four members of the State board of equalization; a clerk of the board of equalization; three members of the State board of railroad commissioners; a secretary of the State board of railroad commissioners; a baliff of the State board of railroad commissions; seven members of the State board of health; five members of the San Francisco board of health; five members of the Sacramento board of

health; twenty-two regents of the University of California; three members of the State board of education; seven trustees of the State normal school; five trustees of the State library; a State librarian; two deputies for the State librarian; a librarian for the supreme court library; five directors of the State prisons; two wardens of the State prisons; two clerks of the State prisons; five directors for the insane asylum at Stockton; five directors for the insane asylum at Napa; a medical superintendent of the insane asylum at Stockton; two assistant physicians of the insane asylum at Stockton; a resident physician of the insane asylum at Napa; one first assistant physician of the insane asylum at Napa; provided, when the number of patients shall increase to six hundred, the trustees may elect one additional second assistant physician, with the same pay and emoluments as the first assistant physician; a treasurer of the insane asylum at Stockton; a treasurer of the insane asylum at Napa; five trustees for the asylum for the deaf and dumb and the blind; three trustees of the State burying grounds; nine commissioners of the Yosemite Valley and Mariposa Big Tree Grove; such other officers as fill offices created by or under the authority of general laws for the government of counties, cities, and towns, or of the charters or special laws affecting the same, or of the health, school, election, road, or revenue laws. [*Amendment, approved April 23, 1880; Amendments 1880, 83 (Ban. ed. 406); took effect from and after July 1, 1880.*]

352. *State board of equalization.*

SEC. 352. Members elected, one from each of the congressional districts in this State, by the qualified electors thereof, with the controller, constitute the State board of equalization. Their term of office shall be four years, commencing from the first Monday after the first day of January following their election; provided, that the terms of those members elected in the year eighteen hundred and seventy-nine shall be three years. They shall choose one of their members chairman, who shall hold such office during the pleasure of the board. [*Amendment, approved April 3, 1880; Amendments 1880, 25 (Ban. ed. 117); took effect immediately.*]

384. *Salary of governor.*

SEC. 384. The annual salary of the governor, to include all services rendered ex officio as member of any board or commission as now required, or which may be by law hereafter devolved upon him, six thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 84 (Ban. ed. 407); took effect from and after July 1, 1880.*]

385. *Salary of private secretary.*

SEC. 385. The annual salary of the private secretary of the governor, and ex officio as clerk of the board of examiners, is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 84 (Ban. ed. 407); took effect from and after July 1, 1880.*]

386. *Salary of executive secretary.*

SEC. 386. The annual salary of the executive secretary of the governor is two thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 84 (Ban. ed. 407); took effect from and after July 1, 1880.*]

396. *Duties of lieutenant governor.*

SEC. 396. The duties of the lieutenant governor are prescribed by the constitution. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 410); took effect from and after July 1, 1880.*]

397. *Per diem, etc., of lieutenant governor.*

SEC. 397. The lieutenant governor shall receive the same per diem and mileage, and sum for contingent expenses as the speaker of the assembly, and only during the session of the legislature. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 410); took effect from and after July 1, 1880.*]

408. *Duties of secretary of State.*

SEC. 408. In addition to the duties prescribed by the constitution, it is the duty of the secretary of State:

First—To attend at every session of the legislature, for the purpose of receiving bills and resolutions thereof, and to perform such other duties as may be devolved upon him by resolution of the two houses, or either of them.

Second—To keep a register of and attest the official acts of the governor.

Third—To affix the great seal, with his attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required.

Fourth—To record in proper books all conveyances made to the State, and all articles of incorporation filed in his office.

Fifth—To receive and record in proper books the official bonds of all the officers whose bonds are fixed by part three of this Code, and then deliver the originals to the State treasurer.

Sixth—To record in a proper book all changes of names certified to him by the county clerks, in the manner in which such record is now made.

Seventh—To take and file in his office receipts for all books distributed by him, and to direct the county clerk of each county to do the same.

Eighth—To certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor.

Ninth—To furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law record, or other instrument, filed, deposited, or recorded in his office.

Tenth—To deliver to the State printer, at the earliest day practicable after the final adjournment of each session of the legislature, an index of all laws, resolutions (with marginal notes), and journals, kept, passed, or adopted at such session.

Eleventh—To notify, in writing, the district attorney of the proper county of the failure of any officer in his county to file in his office the sworn statement of fees received by such officer.

Twelfth—To present to the legislature at the commencement of each session thereof a full account of all purchases made and expenses incurred by him in furnishing fuel, lights, and stationery.

Thirteenth—To keep a fee book, in which must be entered all fees, commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payor, paid or not paid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein.

Fourteenth—To file in his office descriptions of seals in use by the different State officers, and furnish such officers with new seals whenever required.

Fifteenth—To discharge the duties of member of the State board of examiners, State capitol commissioner, State sealer of weights and measures, and all other duties required of him by law.

Sixteenth—To report to the governor, at the time prescribed in section three

hundred and thirty-two of this Code, a detailed account of all his official actions since his previous reports, and accompanying the report with a detailed statement, under oath, of the manner in which all appropriations for his office have been expended.

Seventeenth—He must distribute of the bound volumes of the decisions of the supreme court as soon as he receives them:

1. To each State, one copy.
2. To the library of congress, the State library, and the supreme court library, two copies each.
3. To each department of this State, and to each of the United States district judges for this State, justices of the supreme court, and judges of the superior courts, one copy.
4. To each district attorney and county clerk, one copy.
5. To the reporter of the decisions, ten copies. [*Amendment, approved April 23, 1880; Amendments 1880, 85 (Ban. ed. 408); took effect from and after July 1, 1880.*]

417. Salary of secretary of State.

SEC. 417. The annual salary of the secretary of State, to include all services rendered ex officio as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 409); took effect from and after July 1, 1880.*]

418. Salary of deputy.

SEC. 418. The annual salary of the deputy secretary of State is two thousand four hundred dollars. [*Amendment, approved April 1, 1878; Amendments 1877-8, 4; took office from and after December 1, 1879.*]

419. Salary of book-keeper.

SEC. 419. The annual salary of the book-keeper shall be two thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 409); took effect from and after July 1, 1880.*]

420. Salary of recording clerks.

SEC. 420. The annual salary of each recording clerk for the secretary of State is sixteen hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 409); took effect from and after July 1, 1880.*]

421.

[SEC. 421, relating to salary of a general clerk for the secretary of State, was repealed by act of April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.]

422. Salary of special clerks.

SEC. 422. The secretary of State, during each legislative year, from January until April, inclusive, may employ two special clerks, at a monthly salary not exceeding one hundred and twenty-five dollars each. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 409); took effect from and after July 1, 1880.*]

424. Itemized accounts of moneys expended.

SEC. 424. All State officers and appointees shall produce itemized accounts for all moneys, other than salaries, expended by them, accompanied by affidavit that the money has been expended. [*New section, approved April 1, 1878; Amendments 1877-8, 5; took effect from and after December 1, 1879.*]

438. Salary of controller.

SEC. 438. The annual salary of the controller, to include all services rendered

ex officio as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 409); took effect from and after July 1, 1880.*]

439. Salary of deputy controller.

SEC. 439. The annual salary of the deputy controller is two thousand four hundred dollars. [*Amendment, approved April 1, 1878; Amendments 1877-8, 4; took effect from and after December 1, 1879.*]

440. Salary of book-keeper.

SEC. 440. The annual salary of the book-keeper for the controller is two thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 86 (Ban. ed. 409); took effect from and after July 1, 1880.*]

441. Salary of clerks.

SEC. 441. The annual salary of each clerk in the controller's office is sixteen hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 409); took effect from and after July 1, 1880.*]

455. Salary of treasurer.

SEC. 455. The annual salary of the State treasurer, to include all services rendered ex officio as member of any board or commission as now required, or which may be hereafter by law devolved upon him, is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments, 1880, 87 (Ban. ed. 409); took effect from and after July 1, 1880.*]

456. Salary of deputy and clerk.

SEC. 456. The annual salary of the deputy State treasurer is twenty-four hundred dollars; the annual salary of the clerk of the treasurer shall be sixteen hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 409); took effect from and after July 1, 1880.*]

471. Salary of attorney-general.

SEC. 471. The annual salary of the attorney-general, to include all services rendered ex officio as member of any board or commission as now required, or which may be hereafter devolved upon him by law, is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

472. Salary of deputy.

SEC. 472. The annual salary of the deputy attorney-general is twenty-four hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

474. Duty as to escheats—Suits, counsel, and compensation.

SEC. 474. It shall be the duty of the attorney-general to institute investigation for the discovery of all real and personal property which may have or should escheat to the State, and for that purpose shall have full power and authority to cite any and all persons before any of the superior courts of this State to answer investigations and render accounts concerning said property, real or personal, and to examine all books and papers of any and all corporations. When any real or personal property shall be discovered, which should escheat to the State, the attorney-general must institute suit in the superior court of the county where said property shall be situated, for the recovery, to escheat the same to the State. The proceedings in all such actions shall be those provided for in title eight, part three, Code of Civil Procedure. The

attorney-general may, for the purposes and objects of this section, employ counsel to act in his place and stead for the discovery and recovery of both personal and real property, and in such proceedings, both in investigation for discovery or proceedings for recovery, such counsel so employed shall have the power and authority of the attorney-general. The compensation for services of such counsel shall be determined by the board of examiners, and paid out of the sums so found to be escheated and recovered to the State, and not otherwise; provided, that the State of California shall in no case be responsible for any charges for attorney fees for suits prosecuted under this act, but the attorney-general is hereby authorized to pay to the person or persons discovering the same the costs and charges of prosecuting any suit or suits under this act, a sum not in any case exceeding ten per cent. of the sums actually received as provided in this act. [*Amendment, approved April 3, 1880; Amendments 1880, 18 (Ban. ed. 107); took effect immediately.*]

484. *Salary of surveyor-general.*

SEC. 484. The annual salary of the surveyor-general, for all services rendered in any capacity whatsoever, is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

485. *Salary of deputy surveyor-general.*

SEC. 485. The annual salary of the deputy surveyor-general, including his services as ex officio deputy register of the State land-office, is two thousand four hundred dollars. [*Amendment, approved April 1, 1878; Amendments 1877-8, 5; took effect from and after December 1, 1879.*]

486. *Salary of clerks.*

SEC. 486. The annual salary of each clerk in the office of the surveyor-general is sixteen hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

499.

[SEC. 499, relating to the salary of the register of the State land-office, was repealed by act of February 25, 1880; Amendments 1880, 2 (Ban. ed. 10); took effect from passage; also by act of April 23, 1880; Amendments 1880, 87 (Ban. ed. 411); took effect from and after July 1, 1880.]

500. *Salary of clerks.*

SEC. 500. The annual salary of each clerk in the register's office is sixteen hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

513. *Salary of superintendent of public instruction.*

SEC. 513. The annual salary of the superintendent of public instruction is three thousand dollars. [*Amendment, approved April 1, 1878; Amendments, 1877-8, 5; took effect from and after December 1, 1879.*]

515. *Salary of clerk.*

SEC. 515. The annual salary of the clerk for the superintendent of public instruction is sixteen hundred dollars. [*New section, approved April 23, 1880; Amendments 1880, 87 (Ban. ed. 410); took effect from and after July 1, 1880.*]

516. *Traveling expenses.*

SEC. 516. The actual traveling expenses of the superintendent, not exceeding ten hundred dollars annually, must be audited by the board of examiners, and paid out of the general fund in the State treasury. [*Amendment, approved*

April 23, 1880; Amendments 1880, 87 (*Ban. ed.* 410); took effect from and after July 1, 1880.

526. Superintendent of State printing—Duties.

SEC. 526. It is the duty of the superintendent of State printing:

One—To print the laws; the journals of the legislature; reports of State officers; public documents ordered to be printed by the legislature; blanks for the supreme court, the offices of governor, secretary of State, controller, treasurer of state, superintendent of public instruction, attorney-general, surveyor-general, and register of the land office; the bills, resolutions, and other job printing which may be ordered by either of the two houses of the legislature, and all other public printing for the State, unless otherwise expressly ordered by law.

Two—To publish, prefixed to each volume of the laws, the names and place of residence of the governor, and other executive officers of the State, lieutenant-governor, senators, and representatives in the legislature, the presiding officers of the senate and assembly, and of commissioners of the State of California residing out of the State, and in office at the time of such publication.

Three—To perform the duties required by the provisions of Article Twelve, Chapter Two, Title One, Part Three, of this Code, and such other duties as are imposed upon him by law.

Four—He shall keep in his office, open to public inspection, a time-book, containing the name of every employé connected with the State printing office, the time employed, the rate of wages, and amount paid; and he shall certify, under oath, to the correctness of all claims for services rendered and materials furnished, which certificate shall be attached to and presented with each claim that shall be presented to the board of examiners for allowance, and no such claim shall be certified or allowed unless it be fully itemized.

Five—He shall file in the office of the secretary of State, all proposals, bids, contracts, bonds, and other papers appertaining to the awarding of contracts now in his possession, or which may hereafter come into his possession, retaining in his office copies of the same; and the secretary of State shall promptly furnish the board of examiners, for their use, certified copies of all such papers.

Six—All printing required by any of the State departments, boards, or any State officer, for the State, the order for the same shall be made out upon a printed blank, with voucher attached, to be furnished by the superintendent of State printing, and forwarded to the office of said superintendent, who shall enter upon a book kept in his office for that purpose, a transcript of said orders; and shall return with the work, when completed, to the person ordering the same, the original order, with duplicate voucher attached; said voucher to be signed by the person receiving the work, and returned to the superintendent of State printing, and both original and duplicate orders shall be kept on file in his office, and shall be a sufficient voucher for said work. The superintendent of State printing shall enter upon a book to be kept for said purpose, the name, quantity, and weight of paper used for each order printed. He shall also certify, under oath, that all materials, stock, and paper furnished the office under contracts are of the quality, kind, and weight required by such contracts; and no claim arising under any contract shall be allowed or paid unless accompanied by such certificate. He shall also retain and file in his office one copy or sample of each blank, circular, pamphlet, book, legislative bill, file, or report, or any other work emanating from the State printing

office, excepting blank books, of which he shall file only sample sheets. Said copies or samples shall bear a uniform number and date with the voucher.

Seven—No printing for the senate, or any committee of the same, shall be executed except upon an official order of the secretary, and no order for any printing shall be made by that officer unless the same is ordered by a majority vote of the senate. All printing done for the senate shall be delivered to the sergeant-at-arms of that body, whose duty it shall be to distribute one-third of the copies of any document printed to the members of the senate and two-thirds to the sergeant-at-arms of the assembly, who shall receipt therefor, for distribution to the members thereof. There shall be printed two hundred and forty copies of all bills, resolutions, and reports ordered printed by the senate.

Eight—No printing for the assembly, or any committee of the same, shall be executed except upon an official order of the chief clerk, and no order for any printing shall be made by that officer unless the same is ordered by a majority vote of the assembly. All printing done for the assembly shall be delivered to the sergeant-at-arms of that body, whose duty it shall be to distribute two-thirds of the copies of any document printed to the members of the assembly, and one-third to the sergeant-at-arms of the senate, who shall receipt therefor, for distribution to the members thereof. There shall be printed two hundred and forty copies of all bills, resolutions, and reports ordered printed by the assembly.

Nine—The receipts of the respective sergeant-at-arms of the senate and assembly shall be a sufficient voucher to the superintendent of State printing for all work done for either house. [*Amendment, approved April 1, 1878; Amendments 1877-8, 7; took effect from passage; repealed all conflicting acts.*]

528. Laws and journals to be printed.

SEC. 528. There must be printed of the laws of each session of the legislature, twenty-two hundred and fifty copies, in English, to be deposited with the secretary of State, who, after retaining a sufficient number of said volumes for distribution, in accordance with the provisions of section four hundred and nine of the Political Code, shall deposit one hundred and fifty copies with the State librarian; the remaining copies to be sold at a price not to exceed three dollars per bound volume; the moneys thus received to be paid into the State treasury at the end of each month, as other fees are paid by the said secretary of State, and for the same purposes. Whenever any bill, joint or concurrent resolution, is passed to enrollment, by either the senate or assembly, the committee on enrollment of the house in which the bill, joint or concurrent resolution originated, shall transmit the same without delay, to the superintendent of State printing, who shall receipt for all such bills and resolutions, and proceed at once to have the same printed, in the order in which received, in the measure prescribed by law for the statutes. So soon as printed, one copy, with proper blanks for the signatures of the officers whose duty it is to sign enrolled bills, shall be printed on bond paper, which, together with the engrossed bill, shall be sent to the committee on enrollment of the house in which the bill originated. Said committee shall compare such copy with the engrossed bill, and if it is found to be correct, shall present it to the proper officers for their signatures. When such officials shall have signed their names thereon, as required by law, it shall be an enrolled bill, and shall be transmitted to the governor for his approval. If the same is signed by the governor and becomes a law, the printed law shall go to the secretary of State and become the official record.

Second—Whenever a law is signed by the governor, official notice shall be forwarded, in writing, to the superintendent of State printing of the fact. Upon the receipt of said official notice, the superintendent of State printing shall cause to be printed, for the use of the legislature, two hundred and forty copies of said law, joint or concurrent resolution, to be distributed, one third to the senate and two thirds to the assembly, the sergeant-at-arms of the respective houses to receipt to the superintendent of State printing for the same, whose receipt shall be a proper voucher for the work. He shall also cause to be printed the requisite number of sheets to make the number of copies of the statutes required by law to be printed, and one composition of type to answer the purpose of printing the three editions; and of such laws, resolutions, and memorials as may be designated by the legislature, two hundred and forty copies in Spanish. Of the journals and appendices of the senate and assembly there must be printed four hundred and eighty copies, in one volume or more, as may be required by the size thereof. The superintendent of State printing shall have the laws, journals of senate and assembly, and the appendices thereto, properly indexed and bound, the laws in full law sheep binding, and journals and appendices in half law sheep binding, marble sides, and deliver the same to the secretary of State for distribution as soon as practical, after the final adjournment of the legislature, and the receipt of the secretary of State shall be his voucher therefor. [*Amendment, approved April 1, 1878; Amendments 1877-8, 9; took effect from passage; repealed all conflicting acts.*]

531. *Duties of superintendent of State printing.*

SEC. 531. The duties of the superintendent of State printing shall be as follows: He shall have the entire charge and superintendence of State printing. He shall take charge of and be responsible on his bond for all manuscripts and other matter which may be placed in his hands to be printed, engraved, or lithographed, and shall cause the same to be promptly executed. He shall receive from the senate or assembly all matter ordered by either house to be printed and bound, or either printed or bound, and shall keep a record of the same, and of the order in which it may be received, and when the work shall have been executed, he shall deliver the finished sheets or volumes to the sergeant-at-arms of the senate or assembly, or of any department authorized to receive them, whose receipts therefor shall be a sufficient voucher to the said superintendent of State printing for their delivery. He shall receive and promptly execute all orders for printing required to be done for the various State offices. He shall employ such compositors, pressmen, and assistants as the exigency of the work from time to time requires, and may at any time discharge such employés; provided, that at no time shall he pay said compositors, pressmen, or assistants a higher rate of wages than is paid by those employing printers in Sacramento for like work. He shall at no time employ more compositors or assistants than the absolute necessities of the State printing may demand, and he shall not permit any other than State work to be done in the State printing office. The superintendent of State printing shall, on or before the first day of September of each year, make a report, in writing, to the governor, embracing a record of the complete transactions of his office for the preceding fiscal year, which report shall show, in detail, all the items of expense attending the State printing, and the expenses of the office, including repairs and the purchase of materials of all kinds. Said reports shall also state the number of reams and various kinds of paper delivered to him, and the amount and quality remaining on hand, which report shall be printed for the use of

the legislature. [*Amendment, approved April 1, 1878; Amendments, 1877-8, 10; took effect from passage; repealed all conflicting acts.*]

532. Paper, how to be supplied.

SEC. 532. In July of each year the superintendent of State printing shall submit to the State board of examiners samples of the various kinds, sizes, and qualities of paper that will probably be required in his office during the year commencing on the then next first Monday in October, an estimate of the probable quantity of each kind, size, and quality that will be so required. Upon being satisfied that the kind, sizes, quantities, and qualities of paper so suggested will be required, they shall direct the superintendent of State printing to advertise for thirty days in one daily newspaper published in the City of San Francisco, and one daily newspaper published in the City of Sacramento, for proposals to furnish such paper, or so much thereof as may be required during the year commencing as aforesaid, which bids shall be opened in his office at twelve o'clock m. on the day appointed, in the presence of the said superintendent, and at least two of the State board of examiners; and the State board of examiners and the said superintendent of State printing shall constitute a board to award the contract to the lowest responsible bidder. No bill [bid] shall be considered unless accompanied by a certified check, in the sum of two thousand dollars, gold coin, payable to the governor for the use of the people of the State of California, conditioned that if the bidder receives the award of the contract he will, within thirty days, enter into bonds in the sum of ten thousand dollars, with two or more sureties, to be approved by the governor of the State, that he will faithfully perform the conditions of his contract; all bids must be for the furnishing and delivery of the paper and materials at the State printing office, in the City of Sacramento, so that the State shall not be charged with any cost of transportation or delivery, which must be specified in the advertisement for bids. If all the bids opened shall be deemed too high by said board, they may decline them and advertise again. If the second set of bids are considered too high, the said board may again decline them, and the superintendent of State printing may purchase such paper in open market. The prices paid shall, in no case, be higher than the lowest price at which such paper was offered to be furnished by the bids so rejected. [*Amendment, approved April 1, 1878; Amendments 1877-8, 11; took effect from passage; repealed all conflicting acts.*]

536. Contingent expenses.

SEC. 536. Whenever any money is appropriated for the support of the State printing office, a sum not exceeding the sum of one thousand dollars thereof shall, in each fiscal year for which the appropriation is made, be applied to and used for the purpose of paying contingent expenses of State printing office. The superintendent of State printing shall keep an itemized account of all moneys expended out of the contingent fund hereby created, and shall furnish the governor with a copy of the same, under oath, at the end of each fiscal year. [*Amendment, approved April 1, 1878; Amendments 1877-8, 12; took effect from passage; repealed all conflicting acts.*]

538. Engraving and lithographing.

SEC. 538. When any chart, map, diagram, or other engraving shall be required to illustrate any document ordered to be printed, such chart, map, diagram, or engraving shall be procured by the superintendent of State printing. No bills for engraving, or lithographing, or lithograph printing, other

than the above, shall be allowed by the board of examiners. All State printing shall be done in the State printing office. [*Amendment, approved April 1, 1878; Amendments 1877-8, 12; took effect from passage; repealed all conflicting acts.*]

An Act making an appropriation for the State printing office for the fiscal year ending June 30, 1880.

Approved February 2, 1880; 1880, 2 (Ban. ed. 2).

[This Act appropriated forty-five thousand dollars for the purchase of a press, type, and other printing material, and for the payment of wages and other incidental expenses for the year indicated in the title. The first section of the act provides as follows:]

SECTION 1. The superintendent of State printing is hereby authorized, under the advice and superintendence of the State board of examiners, to purchase such printing presses, type, and other material, as may be necessary for the carrying on of the State printing office.

An Act to provide for the enlargement of the state printing office, and for the repairing and painting of the building.

Approved April 16, 1880; 1880, 120 (Ban. ed. 386).

[This act authorized the board of State capitol commissioners to make such changes and alterations in the building known as the "governor's mansion" as might be necessary for the enlargement and fitting up of the state printing office, and appropriated four thousand dollars to cover the expenses.]

595. Insurance commissioner—Duties.

Sec. 595. The insurance commissioner must receive all bonds and securities of persons engaged in the transaction of insurance business in this State, and file and safely keep the same in his office, or deposit them as provided in this article. He must examine and inspect the financial condition of all persons engaged, or who desire to engage, in the business of insurance; issue a certificate of authority to transact insurance business in this State to any persons in a solvent condition, who have fully complied with the laws of this State, and are in no wise in arrears to the State, or to any county or city of the State, for fees, licenses, taxes, or penalties accrued upon business previously transacted in the State; determine the sufficiency and validity of all bonds and other securities required to be given by persons engaged, or to be engaged, in insurance business, and cause the same to be renewed in case of the insufficiency or invalidity thereof; and perform all other duties imposed upon him by the laws regulating the business of insurance in this State, and enforce the execution of such laws; prepare and furnish, on demand, to all persons engaged in the insurance business, blank forms for such statements or reports as may by law be required of them; make, on or before the first day of August in each year, a report to the governor of this State, containing a tabular statement and synopsis of the reports which have been filed in his office, showing, generally, the condition of the insurance business and interests in this State, and other matters concerning insurance, and a detailed statement, verified by oath, of the moneys and fees of office received by him, and for what purpose. And whenever any insurance company, doing business in this State, shall voluntarily surrender to the insurance commissioner its certificate of authority previously granted, thereby withdrawing from business in this State, the commissioner must make due publication of such surrender and withdrawal daily for the period of one week, in each of two daily newspapers, the one published in the City of San Francisco, and the other in the City of Sacramento. It is further enacted, that if any action hereafter commenced in any district court of this State, by a citizen thereof, against a foreign corporation or company

doing insurance business in this State, such corporation or company shall transfer, or cause to be transferred, such action to the United States circuit court, the right of such corporation or company to transact insurance business in this State shall thereupon and thereby cease and determine; and the insurance commissioner shall immediately revoke the certificate of such corporation or company authorizing it to do business in this State, and publish such revocation daily, for the period of two weeks, in each of some two daily newspapers, the one published in the City of San Francisco, and the other in the City of Sacramento. [*Amendment, approved April 1, 1878; Amendments 1877-8, 12; took effect from passage.*]

596. *Business of insurance not to be transacted without certificate.*

Sec. 596. No person or company must transact insurance business in this State without first procuring from the insurance commissioner a certificate of authority, as in this chapter provided; and all policies issued or renewed and all insurances taken before obtaining such certificate of authority, are null and void; and any person who as agent or pretended agent of any insurance company, or other person, shall, without the possession of such certificate of authority, solicit, issue, or procure to be issued in this State any policy of insurance, shall forfeit to the people of this State the sum of two hundred dollars for each and every policy so issued, or procured to be issued. But any company or corporation belonging to any other State or country, having policies of life insurance outstanding in this State, and that were issued in accordance with the laws of this State, shall have the right to maintain a special agent in this State for the collection of renewal premiums on such policies, and the commissioner is hereby authorized to issue to the duly appointed special agent of such company or corporation, a certificate authorizing him to collect such renewal premium; such certificate to be issued on the production to the commissioner of satisfactory evidence that such company or corporation is authorized to transact life insurance business in the State or country to which it belongs. And any person, who, as agent of either the insured or insurer, shall collect such renewal premiums, must, on or before the tenth day of January, annually, file with the commissioner a statement under oath showing the gross amount of such annual premiums collected by him during the year ending on the thirty-first day of December next preceding, and pay into the office of the commissioner the sum of twenty dollars, gold coin of the United States. Failing to make such statement and payment within the time named, such person shall forfeit to the people of the State of California the sum of one hundred dollars for each and every policy so renewed by the payment to him of such renewal premium. All penalties and forfeitures under this section must be collected by the insurance commissioner, and for the purposes of such collections suits may be instituted by him, in the name of the people of the State of California, in any court of competent jurisdiction. [*Amendment, approved April 26, 1880; Amendments 1880, 89 (Ban. ed. 517); took effect sixtieth day after passage; repealed conflicting acts.*]

601. *Proceedings on failure to make up capital stock.*

Sec. 601. In case any person, upon the requisition of the commissioner, fails to make up the deficiency of the capital in accordance with the requirements of this chapter, or to comply in all respects with the laws of this State, the commissioner must communicate the fact to the attorney-general, who must commence an action in the name of the people of this State, in the superior

court of the county where the person in question is located, or has his principal office, against such person, and apply for an order requiring cause to be shown why the business should not be closed; and the court must thereupon hear the allegations and proofs of the respective parties, as in other cases. If it appears to the satisfaction of the court that such person is insolvent, or that the interests of the public so require, the court must decree a dissolution of such corporation, and a winding up of its affairs, and a distribution of the effects of such person; but otherwise, the court must enter a decree annulling the act of the commissioner in the premises, and authorizing such person to resume business. But the commissioner must not be held liable for damages, if he has acted in good faith. In the event of any additional losses occurring upon new risks taken after the expiration of the period limited by the commissioner in the requisition, and before the deficiency has been filled up, the directors of any company, corporation, or association are individually liable to the extent thereof. [*Amendment, approved April 3, 1880: Amendments 1880, 19 (Ban. ed. 107); took effect immediately.*]

602. What constitutes insolvency.

SEC. 602. Whenever provision for the liabilities of any person engaged in the business of fire, marine, or inland navigation insurance in this State, for losses reported, expenses, taxes, and re-insurance of all outstanding risks, estimated at fifty per cent. of the premiums received and receivable on all fire risks and marine time risks, at the full premiums received and receivable on all other marine risks, would so far impair his capital stock paid in as to reduce the same below two hundred thousand dollars, or below seventy-five per cent. of said capital stock paid in, such person is insolvent; and in the case of a person engaged in such insurance in this State, on the mutual plan, if the available cash assets of such person shall not exceed his liabilities, as hereinbefore enumerated, in the full sum of two hundred thousand dollars, such person is insolvent; and whenever provision for the liabilities of any person engaged in any kind of insurance business in this State, other than life, provided for in section four hundred and twenty of the Civil Code of this State, for losses reported, expenses, taxes, and re-insurance of all outstanding risks, estimated at such rates as are accepted by the insurance authorities of the State of New York, would so far impair his capital stock paid in as to reduce the same below one hundred thousand dollars, or below seventy-five per cent. of said capital stock paid in, such person is insolvent; and in case of a person engaged in such insurance business in this State, on the mutual plan, if his available cash assets shall not exceed his liabilities, as hereinbefore enumerated, in the full sum of one hundred thousand dollars, such person is insolvent. In the case of a company or corporation engaged in the business of life insurance, whenever its liabilities for losses reported, expenses, taxes, and re-insurance of all its outstanding risks, at rates based upon the American Experience Table of Mortality, and interest at the rate of four and one half per centum per annum, exceeds its assets, such company or corporation is insolvent. [*Amendment, approved April 1, 1878; Amendments 1877-8, 14; took effect from passage.*]

611. Statement, what to contain—Publication and filing. - *What to contain* -

SEC. 611. The statements mentioned in the preceding section must exhibit the condition and affairs of every such corporation, person, firm, or association, on the thirty-first day of December then next preceding, and must be filed with

the commissioner; and as adjusted by the commissioner, upon a proper examination of the same, must be published by such corporation, person, firm, or association, daily, for the period of one week, in some newspaper published in the city where the principal office is located. Such statement, if made by a person or corporation organized under the laws of this State, must be filed with the commissioner on or before the first day of February of each year. If made by a person or corporation organized under the laws of any other of the States or Territory of the United States, it must be filed on or before the tenth day of March of each year. And if made by a person, or corporation organized under the laws of any country foreign to the United States, it must be filed on or before the first day of May of each year. [*Amendment, approved April 1, 1878; Amendments 1877-8, 15; took effect from passage.*]

612. Statement, what to show.

SEC. 612. Such statement, if made by fire, marine, and inland insurance companies, or by companies organized under section four hundred and twenty of the Civil Code, must show:

First—The amount of the capital stock of the company.

Second—The property or assets held by the company, specifying:

1. The value of real estate held by such company.
2. The amount of cash on hand and deposited in banks to the credit of the company, specifying the same.
3. The amount of cash in the hands of agents, and in course of transmission.
4. The amount of loans secured by bonds and mortgages, constituting the first lien on real estate, on which there is less than one year's interest due or owing.
5. The amount of loans on which interest has not been paid within one year previous to such statement.
6. The amount due the company on which judgments have been obtained.
7. The amount of stocks of this State, of the United States, or any incorporated city of this State; and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stocks.
8. The amount of stocks held as collateral security for loans, with the amount loaned on each kind of stock, its par value and market value.
9. The amount of interest due and unpaid.
10. The amount of all other loans made by the company, specifying the same.
11. The amount of premium notes on hand on which policies are issued.
12. All other property belonging to the company, specifying the same.

Third—The liabilities of such company, specifying:

1. The amount of losses due and unpaid.
2. The amount of claims for losses resisted by the company.
3. The amount of losses in process of adjustment, or in suspense, including all reported or supposed losses.
4. The amount of dividends declared, due, and remaining unpaid.
5. The amount of dividends declared, but not due.
6. The amount of money borrowed and security given for the payment thereof.
7. Gross premiums (without any deduction) and receivable upon all unexpired fire risks running one year or less from date of policy, re-insurance thereon at fifty per cent.

8. Gross premiums (without any deduction) received and receivable upon all unexpired fire risks running more than one year from date of policy, re-insurance thereon pro rata.

9. Gross premiums (without any deductions) received and receivable upon all unexpired marine and inland navigation risks, except time risks, re-insurance thereon at one hundred per cent.

10. Gross premiums (without any deductions) received and receivable on marine time risks, re-insurance thereon at fifty per cent.

11. Amount reclaimable by the insured on perpetual fire insurance policies, being ninety-five per cent. of the premiums or deposit received.

12. Re-insurance fund and all other liabilities, except capital, under the life insurance or any other special department.

13. Unused balances of bills and notes taken in advance for premiums on open marine and inland policies, or otherwise, returnable on settlement.

14. Principal unpaid on scrip or certificates of profits, which have been authorized or ordered to be redeemed.

15. Amount of all other liabilities of the company, specifying the same.

Fourth—The income of the company during the preceding year, specifying:

1. The amount of cash premiums received.

2. The amount of notes received for premiums.

3. The amount of interest money received, specifying the same.

4. The amount of income received from all other sources, specifying the same.

Fifth—The expenditures of the preceding year, specifying:

1. The amount of losses paid.

2. The amount of dividends paid.

3. The amount of expenses paid, including commissions and fees to agents and officers of the company.

4. The amount paid for taxes.

5. The amount of all other payments and expenditures.

Sixth—1. The amount of risks written during the year.

2. The amount of risks expired during the year.

3. The amount of risks written during the year in the State of California.

4. The amount of premiums thereon. [*Amendment, approved April 1, 1878; Amendments 1877-8, 15; took effect from passage.*]

616. *Agent upon whom process may be served.*

SEC. 616. The insurance commissioner must require, as a condition precedent to the transaction of insurance business in this State by any foreign corporation or company, that such corporation or company must file in his office the name of an agent, and his place of residence in this State, on whom summons and other process may be served in all actions or other legal proceedings against such corporation or company. All process so served gives jurisdiction over the person of such corporation or company. The agent so appointed and designated shall be deemed in law a general agent, and must be the principal agent or chief manager of the business of such corporation or company in this State. Any such foreign corporation or company shall, as a further condition precedent to the transaction of insurance business in this State, and in consideration of the privilege to transact such insurance business in this State, make and file with the insurance commissioner an agreement or stipulation, executed by the proper authorities of such corporation or company, in form and substance as follows: The (giving name of corporation or company) does hereby

stipulate and agree, that in consideration of the permission granted by the State of California to it to transact insurance business in this State, that if at any time said corporation or company shall be without an agent in said State, on whom summons or other legal process may be served, service of such summons or other legal process may be made upon the insurance commissioner, such service upon the commissioner to have the same force and effect as if made upon the corporation or company. Whenever such service of summons or other legal process shall be made upon the insurance commissioner, he must, within ten days thereafter, transmit by mail, postage paid, a copy of such summons or other legal process to the company or corporation, addressed to the president or secretary thereof, at its home or principal office. Such copy must be certified by the commissioner, under his hand and official seal, and the sending of such copy by the said commissioner shall be a necessary part of the service of summons or other legal process. [*Amendment, approved April 1, 1878; Amendments 1877-8, 17; took effect from passage.*]

617. Failure to make statements—Penalty.

Sec. 617. The commissioner must collect the sum of one thousand dollars from any company or corporation engaged in the business of insurance in this State for a failure to make and file in his office, within the time prescribed by law, the statements and stipulations required by sections six hundred and ten, six hundred and eleven, six hundred and twelve, six hundred and thirteen, and six hundred and sixteen of this Code, and an additional penalty of two thousand dollars for each and every month thereafter that such company or corporation continues to transact the business of insurance, until such statements and stipulations are filed, and for that purpose suits may be instituted in the name of the people of the State of California, in any court of competent jurisdiction. This section shall take effect and be in force from and after the fifteenth day of May, eighteen hundred and seventy-eight. [*Amendment, approved April 1, 1878; Amendments 1877-8, 18; took effect from passage.*]

618. Company to deposit securities.

Sec. 618. Whenever the laws of any State of the United States, or of any country foreign to the United States, require any insurance company or corporation organized under the laws of this State to deposit with some officer of this State securities in trust for and for the benefit of the policy holders of such company or corporation, as a prerequisite to transacting insurance business in such other State or foreign country; and whenever, under any laws of this State, any insurance company or corporation is required to deposit with any officer of this State securities in trust for and for the benefit of policy holders of such company or corporation, the insurance commissioner of this State must receive from such company or corporation securities in the amount required by the law under which such deposit is made, on deposit and in trust for the policy holders of such company or corporation. The value of such securities must be equal to the value of interest-bearing stocks and bonds of the United States Government, but none of such securities must be estimated above the par value of the same, nor above their market value. The commissioner must, upon the receipt of such securities, forthwith make a special deposit of the same in the State treasury, in packages marked with the name of the company or corporation from whom received, where they must remain as security for policy holders in the company or corporation to which they respectively belong; but so long as the company or corporation continues

solvent, he must permit it to collect the interest or dividends on the securities so deposited, and from time to time to withdraw any such securities on depositing other securities in the stead of those to be withdrawn; such new securities to be of the same value mentioned in this section, but such securities must not be withdrawn from the State treasury unless upon the written order of the acting president and secretary of the corporation making the deposits, which order must be indorsed by the commissioner, or upon the order and authority of some court of competent jurisdiction. [*Amendment, approved April 1, 1878; Amendments 1877-8, 18; took effect from passage.*]

619. Deposits, receipts for.

SEC. 619. Whenever any insurance company or corporation has deposited with the commissioner the requisite security in conformity with the requirements of the preceding section, the commissioner must issue to such company or corporation a certificate, under his official seal, of such deposit, for each State or country requiring the same; which said certificate must state the items and amount of securities so deposited, and that they are of the value therein represented. [*Amendment approved April 1, 1878; Amendments 1877-8, 19; took effect from passage.*]

620. Deposits, returned, when.

SEC. 620. Whenever any insurance company or corporation so depositing securities with the commissioner, has paid, canceled, or re-insured all its unexpired policies outstanding in the State, satisfactorily to the holders thereof, and all its liabilities under such policies are extinguished or assumed by other responsible companies or corporations, then, if on application of such company or corporations, verified by the oaths of its president and secretary, and from an examination of the books of the corporation, and of its officers, under oath, the insurance commissioner is satisfied that all of its policies are so paid, canceled, extinguished, or re-insured, he must deliver up to the corporation the securities deposited. And whenever the laws of any other State or country, by reason of which section six hundred and twenty-two of the Political Code of this State is brought into force, shall be repealed and abrogated, and any deposit which shall have been made with the commissioner, under and by reason of said section six hundred and twenty-two of the Political Code, must be delivered up to the company or corporation making the deposit. [*Amendment, approved April 1, 1878; Amendments 1877-8, 19; took effect from passage.*]

621. Annual examination of securities.

SEC. 621. The commissioner must make an annual examination of the securities received by him from each insurance company or corporation, and if it appear at any time that the securities deposited by any such company or corporation amount to less than the sum required for the purposes for which the deposit was made, he must notify the company or corporation thereof, and unless the deficiency is made up within thirty days after notice, the commissioner must countermand all the certificates he may have issued to the company or corporation under this Chapter, and give notice thereof to the officers of the several States to whom the certificate may have been transmitted; and he must also publish the notice for three weeks successively, in some daily newspaper published in the City of San Francisco, at the expense of the company or corporation, to be collected by assessment upon the company or corporation, or its

duly appointed agent in this State. [*Amendment, approved April 1, 1878; Amendments 1877-8, 19; took effect from passage.*]

622. Retaliatory clause.

SEC. 622. When, by the laws of any other State or country, any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions, are imposed on insurance companies of this State doing business in such other State or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of securities, or other obligations or prohibitions imposed upon insurance companies of such other State or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind must be imposed upon insurance companies of such other State or country doing business in this State. And whenever, under this section, any deposit of security shall be made in this State, such deposit shall be made in stocks or bonds of the United States Government, or in those of the State of California; which said securities must be estimated at not exceeding their par value, nor their market value. [*Amendment, approved April 1, 1878; Amendments 1877-8, 20; took effect from passage.*]

628. Salary of insurance commissioner.

SEC. 628. The annual salary of the insurance commissioner is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.*]

629. Salary of clerk.

SEC. 629. The annual salary of the clerk of the insurance commissioner is sixteen hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.*]

633. Conditions precedent to right to act as insurance agent or solicitor.

SEC. 633. No person shall in this State act as the agent or solicitor of any life insurance company doing business in this State until he has produced to the commissioner, and filed with him, a duplicate power of attorney from the company or its authorized agent, authorizing him to act as such agent or solicitor. Upon filing such power, the commissioner shall issue a license to him to act as such agent or solicitor for such company, if such company has received a certificate of authority from such commissioner to do business in this State; provided that if such agent or solicitor shall, within the twelve months next preceding, have been in the employ of any other company, or its authorized agent, as such agent or solicitor, he must produce to the commissioner written evidence from such employer that all moneys he may have collected for such company or agent have been paid over to said company or agent. Such license shall continue in force twelve months from the date thereof, but may be, and shall be sooner revoked upon application of the company or its authorized agent. Such license may be renewed from time to time, for an additional period of twelve months, on production by the holder to the commissioner of a certificate from the company that such person's authority as such agent or solicitor continues. For each such license, or renewal thereof, the commissioner shall receive the sum of one dollar. The commissioner shall keep an alphabetical list of the names of persons to whom such licenses shall be issued, with the date of the license and renewal, and the name of the company for whom such person is working. If any person shall, under a false or fictitious name, procure, or attempt to procure, a license to act as agent or solicitor of any life insurance company, he shall be guilty of a misdemeanor. Every per-

son who, in this State, procures, or agrees to procure, any insurance for a resident of this State from any insurance company not incorporated under the laws of this State, unless such company or its agent has filed the bond required by the laws of this State relating to insurance, and obtained from the commissioner a certificate of authority to do business, and every person who solicits or procures any life insurance, without having been duly licensed so to do by the commissioner, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished accordingly. The insurance commissioner must require, as a condition precedent to the transaction of life insurance business in this State, that every life insurance corporation or company created by the laws of any other State, or of any foreign country, must file in his office the name of an agent, and his place of residence in this State, on whom summons and other process may be served in all actions, or other legal proceedings against such corporation or company. All process so served gives jurisdiction over the person of such corporation or company; the agent so appointed must be the principal agent of such corporation or company in this State; any such foreign corporation or company shall, as a further condition precedent to the transaction of insurance business in this State, and in consideration of the privilege to transact such insurance business in this State, make and file with the insurance commissioner an agreement or stipulation, executed by the proper authorities of such corporation or company, in form and substance as follows: The (giving name of corporation or company), does hereby stipulate and agree, that, in consideration of the permission granted by the State of California to it to transact insurance business in this State, that if at any time such corporation or company shall, under the existing provisions of law of this State in relation to insurance companies, be without an agent in this State on whom summons or other legal process may be served, service of such summons or other legal process may be made upon the insurance commissioner, such service upon the commissioner to have the same force and effect as if made upon the corporation or company. Whenever such service of summons or other legal process shall be made upon the insurance commissioner, he must, within ten days thereafter, transmit by mail, by registered letter, a copy of such summons or other legal process to the corporation, addressed to the president or secretary thereof, at its home or principal office; such copy must be certified by the commissioner, under his hand and official seal, and the sending of such copy by the said commissioner shall be a necessary part of the service of summons or other legal process. [*Amendment, approved April 26, 1880; Amendments 1880, 90 (Ban. ed., 518); took effect sixtieth day after passage; repealed conflicting acts.*]

634. Registry of policies—Deposits for security of registered policies.

Sec. 634. It shall be lawful for any company or corporation transacting the business of life insurance in this State, to register with the insurance commissioner such of its policies as may be agreed upon by the company and the insured; such registration to consist in a written or printed list of such policies, filed with the commissioner, showing the name and age of the insured, number and date of the policy, and the kind and amount of insurance in each case. Such list must be filed with the commissioner within thirty days after the issuance of the first registered policy, and must contain all such policies issued up to the date of filing. After that date, the company must, within three days after the first day of each calendar month, file a statement embracing all its registered policies issued since the filing of its last preceding list. Upon filing such

lists of policies, from time to time, the company must deposit with the commissioner, as a special deposit for the benefit of such registered policies, securities of the denominations stated in section four hundred and twenty-seven of the Civil Code, as permissible for the investment of the capital and accumulations of life insurance companies. Such deposit must be in an amount equal to the full net value of all policies registered up to the time of making the deposit, and must at all times be equal to such net value of all the registered policies. Upon receipt of such securities, the commissioner must immediately deposit them in the State treasury, in accordance with the provisions of section six hundred and eighteen, of the Political Code, where they must remain as a special security for the benefit of said registered policies. Such company may, at any time, withdraw any excess of securities above the net present value hereinbefore specified, upon satisfying said commissioner, by written proof, that such excess exists, and shall be allowed to receive the interest on all securities deposited, and to exchange such securities, by substituting other securities of the character in which, by the laws of this State, it may invest its funds. [*New section, approved April 1, 1878; Amendments, 1877-8, 20; took effect from passage.*]

642. Fish commissioners—Duties.

SEC. 642. It is the duty of the fish commissioners:

One—To see that the laws for the preservation of fish and game are strictly enforced; and for that purpose they may, from time to time, employ such assistants as they shall deem necessary, which persons so appointed as assistants shall have all powers and authority of sheriffs to make arrests for violation of such laws throughout the State.

Two—To establish fish breederries for stocking the waters of this State with foreign and native fish.

Three—To purchase and import the spawn or ova of fish suitable for food.

Four—To stock with such spawn the waters of this State.

Five—To employ persons skilled in fish breeding to assist them in their duties.

Six—To furnish plans for and direct and compel the construction and repair of fish ladders and ways upon dams and obstructions.

Seven—To provide for the distribution and protection of game birds imported into this State for purposes of propagation.

Eight—To report biennially to the governor a statement of all their transactions and disbursements. [*Amendment, approved March 28, 1878; Amendments 1877-8, 21; took effect sixtieth day after passage.*]

An Act to provide for removing obstructions in Pitt River, above the month of Hat Creek, so as to enable salmon to reach the spawning grounds on the upper waters of said river and its tributaries.

Approved April 16, 1880; 1880, 104 (Ban. ed. 348).

[By this act the fish commissioners were authorized to advertise for proposals and let a contract or contracts for the removal of obstructions and making fish ways in the portion of Pitt River referred to in the title. An appropriation of three thousand dollars was also made to carry out the provisions of the act.]

An Act to provide for the construction, maintenance, and regulation of fishways in streams naturally frequented by salmon, shad, and other migratory fish.

Approved April 16, 1880; 1880, 121 (Ban. ed. 387).

Duty of fish commissioners.

SEC. 1. It shall be the duty of the State board of fish commissioners to examine, from time to time, all dams and artificial obstructions in all rivers or streams in this State, naturally frequented by salmon, shad, or other migra-

tory fish, and if, in their opinion, there is not free passage for fish over or around any dam or artificial obstruction, to notify the owners or occupants thereof to provide the same within a specified time with a durable and efficient fishway of such form and capacity and in such location as shall be determined by the fish commissioners, or persons authorized by them. If such fishway is not completed to the satisfaction of said commissioners within the time specified, the owners or occupants of such dam or artificial obstruction shall be deemed guilty of a misdemeanor, and may be prosecuted by action, on complaint before any justice's court or justice of the peace in the county where such dam or artificial obstruction is situated, and, on conviction, shall be fined two hundred and fifty dollars, and the plaintiff shall recover full costs; and one half of such fine shall be for the benefit of and shall be paid to the person making the complaint, and the other half shall be paid into the State treasury for the benefit of the fund for "Preservation and Restoration of Fish," and may be expended by the State board of fish commissioners, in their discretion, for the obstruction and maintenance of fishways.

Owners of dams to keep same in repair, etc.

SEC. 2. It shall be incumbent upon the owners or occupants of all dams or artificial obstructions, where the State board of fish commissioners require such fishways to be provided, to keep the same in repair, and open, and free from obstructions to the passage of fish at all times; and any owner or occupants of any such dam or artificial obstruction who neglects or refuses to keep such fishway in repair, and open, and free from obstruction to the passage of fish, shall be guilty of a misdemeanor, and subject to the same fine, and which shall be recovered in the same manner, and applied to the same purposes, as provided in section one of this act.

Injuring fishways, etc.—Misdemeanor.

SEC. 3. Any person who shall willfully or knowingly destroy, injure, or obstruct any such fishway, or any person who shall at any time take or catch any salmon, shad, or other migratory fish or trout, except by hook and line, within three hundred feet of any fishway required by the State board of fish commissioners to be provided and kept open, or shall take or catch any such fish in any manner within fifty feet of such fishway, shall be guilty of a misdemeanor, and subject to the same fine, which shall be recovered in the same manner and applied to the same purposes as provided in section one of this act.

SEC. 4. This act shall take effect and be in force from and after its passage.

684.

[SEC. 684, providing for salaries of the board of examiners, was repealed by act of February 25, 1880; Amendments 1880, 2 (Ban. ed. 10); took effect from passage.

SEC. 685, providing for salary of the clerk of the board of examiners, was repealed by act of April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.]

JUDICIAL OFFICERS AND OFFICERS CONNECTED WITH COURTS.

737. *Salaries of judges of certain superior courts.*

SEC. 737. The annual salaries of the judges of the superior courts of the City and County of San Francisco, and of the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada, and Sonoma, are four thousand dollars each, one half of which shall be paid by the State, and the other half thereof by the county for which the judge

is elected, except that in the Counties of Yuba and Sutter, one fourth of the salary of the superior judge shall be paid by each county. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.*]

738. Salaries of judges of superior courts.

SEC. 738. The annual salaries of the judges of the other superior courts are three thousand dollars each, one half thereof payable by the State, and the other half thereof payable by the county for which the judge is elected. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.*]

739. Salaries of officers of supreme court.

SEC. 739. The annual salaries of the officers connected with the supreme court are as follows:

The reporter of the decisions, twenty-five hundred dollars.

The phonographic reporter, three thousand dollars.

Each secretary, sixteen hundred dollars.

Each bailiff, twelve hundred dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.*]

751. Clerk of supreme court's deputies.

SEC. 751. He may appoint four deputies, one to reside at San Francisco, one at Los Angeles, one at the State capital, and one court-room deputy, to accompany the court at the direction of the clerk. [*Amendment, approved March 15, 1880; Amendments 1880, 5 (Ban. ed. 31); took effect immediately.*]

[A second section to the act, from which the foregoing amendment is taken, made an appropriation for payment of the court-room deputy for five months succeeding his appointment.]

752. Fees.

SEC. 752. He must collect in advance, in United States gold coin, the following fees: For filing the transcript on appeal, in each civil case appealed to the supreme court, fifteen dollars, in full for all services rendered in each case up to the rendering of the judgment or issuing of the remittitur, when no petition for rehearing has been filed; for filing petition for rehearing, five dollars, in full for all services in said cause thereafter, up to and including the remittitur to the court below; for filing motion to dismiss appeal, upon clerk's certificate, two dollars and fifty cents; for filing petitions for writs of mandate, prohibition, review, and all other original proceedings, ten dollars, in full for all services rendered in each cause; for filing orders extending the time to file transcripts, one dollar; for certificate of admission as attorney and counselor, ten dollars; for filing each paper in writs of error to the supreme court of the United States, fifty cents; for making record in writs of error to the supreme court of the United States, and for copies of any record or document in his office, the sum of fifteen cents per folio, but this fee must not be taxed against the parties to suits for any paper or copies of papers necessary up to and including the remittitur; for comparing any document requiring a certificate, ten cents per folio; for each certificate under seal, one dollar. [*Amendment, approved March 26, 1878; Amendments 1877-8, 23; took effect sixtieth day after passage.*]

753. Disposition of fees.

SEC. 753. All fees collected by him must be paid into the State treasury, eighty per cent. thereof to the credit of the general fund, and twenty per cent.

thereof to the credit of the supreme court library fund. [*Amendment, approved March 26, 1878; Amendments 1877-8, 23; took effect sixtieth day after passage.*]

754. Settlements, when and how made.

Sec. 754. He is responsible and must account for, and in his settlement with the controller must be charged, with the full amount of all fees collected or chargeable, and accruing in causes brought into the court, for services rendered therein up to the time of each settlement, and must, at the end of every month, pay the same into the State treasury. He must also, at the end of every month, render to the controller of State, in such form as that officer prescribes, an account in detail, under his own oath, of all fees chargeable and accruing in causes brought into court, and not included in his previous accounts rendered. His salary must not be allowed or paid until all fees so accruing, and for which he is chargeable, have been accounted for and paid over. [*Amendment, approved March 23, 1878; Amendments 1877-8, 23; took effect sixtieth day after passage.*]

755. Salary of clerk of supreme court.

Sec. 755. The annual salary of the clerk of the supreme court is three thousand dollars. [*Amendment, approved April 23, 1880; Amendments 1880, 88 (Ban. ed. 411); took effect from and after July 1, 1880.*]

756. Salaries of deputy clerks.

Sec. 756. The annual salary of each of the deputy clerks is eighteen hundred dollars. [*Amendment, approved March 23, 1878; Amendments 1877-8, 24; took effect sixtieth day after passage.*]

Analytical index.

An Act authorizing and directing the clerk of the supreme court of the State of California to make a general analytical index of all cases filed in the supreme court of the State from the organization thereof.

Approved April 1, 1878; Stats. 1877-8, 1002.

[This act, which provided for the making of the index referred to in the title, and its payment up to date, contained the following concluding proviso:]

Provided, that when said index is so completed up to date, and paid for, as herein provided for, that thereafter no pay, except his salary, shall be allowed to said clerk for keeping said index.

767. Reporter of decisions—Appointment and term.

Sec. 767. The reporter of the decisions of the supreme court shall be appointed by the governor, to hold office for four years from and after his appointment. The governor shall appoint a reporter of the decisions of the supreme court to take effect on the first Monday in May, A. D. 1877, and the term of office of the present incumbent shall cease on that day. [*Amendment, approved March 21, 1878; Stats. 1877-8, 389; took effect from passage.*]

[The foregoing amendment was superseded by Sec. 21 of Art. VII. of the constitution, which provides that the justices of the supreme court shall appoint a reporter, who shall hold office and be removable at their pleasure, and receive an annual salary not to exceed twenty-five hundred dollars, payable monthly.]

768.

[Sec. 768, which provided that the reporter should make and file an affidavit that he had not solicited his appointment, was repealed by act of March 21, 1878; Stats. 1877-8, 389; took effect from passage.]

791. Notaries public—Number.

Sec. 791. The governor may appoint and commission notaries public as fol-

lows: Fifteen for each of the Counties of Alpine, Del Norte, Lake, Lassen, Marin, Mariposa, Modoc, Plumas, San Benito, San Mateo, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Ventura. Twenty for each of the Counties of Mono, San Diego, Amador, Butte, Calaveras, Colusa, Contra Costa, El Dorado, Humboldt, Inyo, Kern, Mendocino, Merced, Monterey, Napa, Placer, San Bernardino, San Luis Obispo, Santa Barbara, Santa Cruz, Solano, Stanislaus, Tuolumne, Yolo, and Yuba. Twenty-five for each of the Counties of Sonoma, Tulare, Fresno, and Nevada. Thirty-five for each of the Counties of Alameda, Los Angeles, Sacramento, Santa Clara, San Joaquin, and for the City and County of San Francisco. Fifteen for each of the counties created subsequent to the creation of this act. [*Amendment, approved April 15, 1880; Amendments, 1880, 59 (Ban. ed. 263); took effect immediately; repealed all conflicting acts.*

An act providing for the appointment of an additional notary public for the City and County of San Francisco, for the accommodation of the inhabitants of said city and county at the Presidio.

Approved April 16, 1880; 1880, 106 (Ban. ed. 345.)

Additional notary public for San Francisco.

SECTION 1. The governor is authorized to appoint and commission one additional notary public for the City and County of San Francisco, who shall keep an office for the transaction of business in that portion of the city and county known as the Presidio.

SEC. 2. This act shall take effect from and after its passage.

799. Official bond of notary.

SEC. 799. Each notary must execute an official bond in the sum of five thousand dollars, which bond must be approved by the judge of the superior court of his county, and filed and recorded as other official bonds of county officers. [*Amendment, approved April 3, 1880; Amendments 1880, 19 (Ban. ed. 108) took effect immediately.*

800. Certificate of filing bond and oath.

SEC. 800. Each notary, so soon as he has taken his official oath and filed his official bond, must transmit a certificate of the facts, under the hand and seal of the county clerk, together with a copy of his official oath, signed by him with his own proper signature, to the office of the secretary of State. [*Amendment, approved March 26, 1878; Amendments 1877-8, 24; took effect from passage.*]

GENERAL PROVISIONS RELATING TO OFFICERS.

876. Aliens not to be appointed deputies or clerks.

An Act relating to the appointment of aliens to positions under State, county, city and county, city or town officials.

Approved April 3, 1880; 1880, 23 (Ban. ed. 116.)

SECTION 1. No person shall be employed as a deputy or clerk in any public office of the State, or of any county or municipality therein, who is not a citizen of the United States.

SEC. 2. This act shall take effect immediately.

909. Oath of office, where filed.

SEC. 909. Every oath of office certified by the officer before whom the same was taken, must be filed within the time required by law, except when otherwise specially provided, as follows:

First—The oath of all officers, whose authority is not limited to any particular county, in the office of the secretary of State.

Second—The oath of all officers, elected or appointed for any county, and of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the offices of the clerks of their respective counties.

Third—Each judge of a superior court and county clerk must, so soon as he has taken and subscribed his official oath, file a copy thereof, signed with his own proper signature, in the office of the secretary of State. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 108); took effect immediately.*]

950. *Bonds of county and township officers; approving, filing, and recording.*

SEC. 950. Unless otherwise prescribed by statute, the official bonds of county and township officers must be approved by the judge of the superior court, recorded in the office of the county recorder, and then filed in the county clerk's office. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 109); took effect immediately.*]

1015. *Proceedings to compel delivery of books and papers.*

SEC. 1015. If any person, whether a former incumbent or another person, refuse or neglect to deliver to the actual incumbent any such books or papers, such actual incumbent may apply, by petition, to any court of record sitting in the county where the person so refusing or neglecting resides, or to any judge of the superior court residing therein, and the court or officer applied to must proceed in a summary way, after notice to the adverse party, to hear the allegations and proof of the parties, and to order any such books or papers to be delivered to the petitioners. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 109); took effect immediately.*]

ELECTIONS.

1041. *General election, when held.*

SEC. 1041. There must be held throughout the State, on the first Tuesday after the first Monday of November, in the year eighteen hundred and eighty, and in every second year thereafter, an election, to be known as the general election. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 366); took effect from passage.*]

[Sec. 1042, relating to the judicial election, was repealed by act of April 16, 1880; Amendments 1880, 77 (Ban. ed. 366); took effect from passage.]

1053. *Election proclamation by governor.*

SEC. 1053. At least thirty days before a general election, and whenever he orders a special election to fill a vacancy in the office of State senator or member of assembly, at least ten days before such special election, the governor must issue an election proclamation, under his hand and the great seal of the State, and transmit copies thereof to the boards of supervisors of the counties in which such elections are to be held. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 366); took effect from passage.*]

1055. *Supervisors may publish proclamation, etc.*

SEC. 1055. The board of supervisors, upon the receipt of such proclamation, may, in case of general or special elections, cause a copy of the same to be published in some newspaper printed in the county, if any, and to be posted at each place of election at least ten days before the election, and in case of

special elections to fill a vacancy in the office of State senator or member of assembly, the board of supervisors, upon receipt of such proclamation, may, in their discretion, cause a copy of the same to be published or posted as hereinbefore provided, except that such publication or posting need not be made for a longer period than five days before such election. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 367); took effect from passage.*]

1083. Qualifications of voters.

SEC. 1083. Every native male citizen of the United States, every male person who shall have acquired the right of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, and whose name shall be enrolled on the great register of such county, shall be a qualified elector thereof. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 307); took effect from passage.*]

1084. Who not entitled to vote.

SEC. 1084. No native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privilege of an elector. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 367); took effect from passage.*]

1094. Great register—Re-registration.

SEC. 1094. There must be kept, in the office of the county clerk of each county, a great register; whenever deemed necessary the board of supervisors of any county may, by order, require a re-registration of the voters of said county, which said order shall be published in at least one newspaper published in said county for not less than six months preceding the next ensuing general election. Such re-registration shall conform in all respects to the provisions of this Code concerning original registration, except that any person applying for re-registration shall be entitled thereto upon showing that his name was enrolled and uncanceled on the former great register. [*Amendment, approved March 30, 1878; Amendments 1877-8, 27; took effect sixtieth day after passage.*]

[The foregoing amendment was not to apply to any special election or registration law applicable to the City and County of San Francisco alone; but to be construed as if passed prior thereto.]

1097. Rules governing entry.

SEC. 1097. No person's name must be entered by the clerk unless:

1. Upon a certificate of registration in another county showing that such registration has been canceled, and upon proof by the affidavit of the party that he is an elector of the county in which he seeks to be registered.

2. Upon the returns of the assessor of the county.

3. If a naturalized citizen, upon the production of his certificate of naturalization, which certificate must be issued ninety days prior to the succeeding election, or upon his own affidavit that it is lost or out of his possession, which affidavit must state the place of his nativity, and the time, and place, and court of his naturalization, together with his affidavit that he has resided in the United States for five years, and in this State for one year next preceding the time of application, and that he would be an elector of the county at the next succeeding election.

4. If born in a foreign country, upon his affidavit that he became a citizen of the United States by virtue of the naturalization of his father while he was residing in the United States, and under the age of twenty-one years, and that he is or would be an elector of the county at the next succeeding election.

5. Upon the production and filing of a certified copy of the judgment of a superior court directing such entry to be made.

6. In other cases, upon the affidavit of the party that he is or would be an elector of the county at the next succeeding election.

7. In every case the affidavit of the party must show all the facts required to be stated in the entry on the register, except the date and number of the entry. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 367); took effect from passage.*]

1106. When entry must be canceled.

Sec. 1106. The clerk must cancel the entry in the following cases:

1. At the request of the party registered.

2. When he knows of the death or removal of the person registered.

3. When the insanity of the person registered is legally established.

4. Upon the production of a certified copy of a judgment of the conviction of any elector of any infamous crime, or of the embezzlement or misappropriation of any public money in full force against the person registered, or upon information of such conviction obtained as hereinafter provided.

5. Upon the production of a certified copy of a judgment directing a cancellation to be made.

6. Upon a certificate of the board of election of any precinct, sent up with the election returns, stating the death or removal, within their own knowledge, of the person registered.

7. When it appears by the returns made by the board and clerks of election that the respective party did not vote during the next preceding two years at any general or special election.

8. The clerk shall cancel upon the great register every name found thereon which is found upon the register of deaths provided for in section three thousand and seventy-nine of this Code.

9. Every judge before whom proceedings were had which result in any male person being declared incapable of taking care of himself and managing his property, and for whom a guardian of his person and estate is accordingly appointed, or which result in such person being committed to a State insane asylum as an insane person, shall file with the county clerk a certificate of that fact, and thereupon the clerk shall cancel the name of such person upon the great register, if found thereon.

10. The county clerk shall also, in the first week of September, in each year, examine the records of the courts having jurisdiction in cases of infamous crimes, and the embezzlement or misappropriation of public money within his county, and cancel upon the great register the names of all persons appearing thereon who shall have been convicted of an infamous crime, or of the embezzlement or misappropriation of public money in such court, and which conviction shall have been carried into effect. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 368); took effect from passage.*]

1108. Persons refused registration may proceed by action.

Sec. 1108. If the clerk refuses to enter the name of any qualified elector of the county upon the great register, such elector may proceed by action in the

1108-1117 AMENDMENTS TO THE POLITICAL CODE.

superior court to compel such entry. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 109); took effect immediately; also, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 367); took effect from passage.*]

1109. *Cancellation by action.*

SEC. 1109. Any person may proceed by action in the superior court to compel the clerk to cancel any entry made on the great register illegally, or that ought to be canceled by reason of facts that have occurred subsequent to the time of such entry, but if the person whose name is sought to be canceled be not a party to the action, the court may order him to be made a party defendant. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 109); took effect immediately; also, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 369); took effect from passage.*]

1113. *Copy of great register.*

SEC. 1113. On the first Monday of October, in each year, in which there shall be a general or presidential election, and on the thirtieth day prior to each general election held every two years thereafter, each county clerk must make a copy of the uncanceled entries existing on the great register of their respective counties. The board of supervisors of any county may, by order, provide for the preparation and distribution of township or precinct registers for each township, instead of copies of the great register. For the purpose of registration, and preparation of a new great register, or of township or precinct registers; and copies thereof, if ordered by the board of supervisors, the county clerk must employ such assistants, and for such times, and at such compensation as shall, from time to time, be authorized by said board, which shall be paid out of the county treasury; such order may be repealed and re-enacted as often as the board of supervisors may deem expedient; provided, that nothing in this section shall be held to repeal any election or registration law applicable to or in force in the City and County of San Francisco. [*Amendment, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 369); took effect from passage.*]

1117. [An Act to compel the county clerk of the City and County of San Francisco to keep open his office upon all election days, approved March 7, 1876; 1875-6, 142, was repealed by act of March 31, 1880; 1880, 18 (Ban. ed. 62), took effect from passage.]

An Act concerning special elections.

Approved February 9, 1878; 1877-8, 73.

Ward registers to be used.

SECTION 1. At any special election to be held in any county, except in the City and County of San Francisco, copies of the great register of such county, and in the City and County of San Francisco copies of the ward registers of said city and county, which were printed before and used at the next preceding general election, shall be used.

Board of supervisors to furnish registers.

SEC. 2. Before the day on which said special election is appointed to be held, the board of supervisors of the county, except the City and County of San Francisco, must furnish the board of election of each precinct in the county at least one copy of the aforesaid printed great register; and the board of supervisors of the City and County of San Francisco must furnish the board of election of each precinct in the county at least one copy of the ward register of the ward in which the precinct is located. If the board can not otherwise obtain a sufficient number of copies of the register for the purpose, it must take the

copies filed in the office of the county clerk, in pursuance of section twelve hundred and sixty-eight of the Political Code.

Letter "V" to be used.

SEC. 3. If the copy of the register which shall be furnished to any precinct shall have been used at a previous election, the letter "V" may be used instead of the word "Voted," as required by section twelve hundred and twenty-eight of the Political Code.

Posting copies of great register.

SEC. 4. It shall not be the duty of the board of election to post copies of the great register, as required by section eleven hundred and forty-nine of the Political Code.

Voter not required to give number.

SEC. 5. The voter, when he offers his ballot at a polling place, shall not be required to announce his number on the great register, as provided for in section twelve hundred and twenty-five of the Political Code.

SEC. 6. This act shall take effect immediately.

An Act to regulate the registration of voters, and to secure the purity of elections in the City and County of San Francisco.

Approved March 18, 1878; 1877-8, 299.

Board of election commissioners.

SECTION 1. The conduct, management, and control of elections and matters pertaining to elections in the City and County of San Francisco is hereby taken from the board of supervisors and vested in a board of five commissioners, who shall consist of the mayor, the auditor, the tax collector, the city and county attorney, and the city and county surveyor of said city and county, which board is hereby invested with all the powers, and charged with all the duties as to elections and matters pertaining to elections now vested in said board of supervisors. The mayor shall be ex officio president of the board of election commissioners, and the registrar of voters hereafter provided for shall be ex officio secretary of said board, and shall give advice and information to said board when required by them so to do. Said board shall meet and organize within twenty days after the passage of this act, or sooner if practicable.

Election precincts.

SEC. 2. The board of election commissioners shall, as soon after each general election as convenient (not to exceed ninety days), proceed to divide said city and county into election precincts, of which there shall be so many as shall be sufficient to make the number of votes polled at any one election precinct to be not more than three hundred nor less than two hundred, as near as can be ascertained; provided, that the first division of said city and county into precincts under this act shall be made as speedily as the same can be done after the organization of said board.

Registrar—Salary—Bond.

SEC. 3. There shall be a "Registrar of Voters" for the City and County of San Francisco, to be appointed by the governor of the State of California from among the citizens of said city and county, subject to confirmation by the board of election commissioners. His salary shall be thirty-six hundred dollars per annum, payable out of the treasury of said city and county as other salaries are paid, and he shall be allowed a clerk, who shall receive a salary of one hundred and fifty dollars per month, payable in the same manner; and such other necessary clerical assistance as shall be found necessary to the discharge of the duties

of said office, to be allowed and authorized by the board of election commissioners of said city and county. He shall have a suitable office provided for him by the said board, and such allowance for stationery, printing, and incidental expenses as shall prove necessary. He shall give an official bond in the sum of ten thousand dollars, with two sureties to be approved by the county judge, conditioned for the faithful performance of his duty.

Powers and duties of registrar.

SEC. 4. The registrar of voters, when appointed and qualified, shall be clothed with all the powers, discharge all the duties, and be liable to all the obligations and official consequences now belonging to, discharged by, or resting upon the county clerk and assessor of said city and county, with respect to the registration of voters and other matters pertaining to elections in said city and county, under the provisions of the Political Code of this State, so far as the same are not annulled by this act. Said county clerk, upon demand, shall transfer and deliver to said registrar the great register, as well as other registers, records, books, documents, and things belonging or in any wise appertaining to the registration of voters, or other election matters in said city and county, and from thenceforward said clerk and assessor shall cease to be charged with any registration or election duties, and the same shall rest upon and be discharged by the registrar.

Office hours.

SEC. 5. Said registrar shall keep his office open for business every day in the year (Sundays and legal holidays excepted), from nine o'clock A. M. till five o'clock P. M. He shall have the power to administer oaths to election officers and all other persons in the discharge of his duty.

Examination of precinct registers—Illegal registration.

SEC. 6. The registrar shall constantly inform himself, by examination and inquiry, as to the condition of the precinct registers and the legality of the names therein, or demanding to be placed thereon, and shall see that none but legal voters are registered. Should the registrar have reason to believe that any name or names upon the precinct register is improperly or illegally there, it shall be his duty forthwith to send a written or printed notice, by postal card or otherwise, to such person, directing the same to his address as found in the directory, or in case his name is not in the directory, then to the address of such person opposite the name on the register of the last preceding election at which such name was voted, requiring such person to show cause before the board of election commissioners why said commissioners shall not cancel said name. If such person fail for five days to appear and establish the legality of such name on the day fixed for the hearing, and on the certificate of the registrar that notice and publication in accordance herewith has been made, the board shall inquire into the case, and if it appears to the satisfaction of the board that such name is improperly upon the precinct register, then said board shall make and enter an order directing the registrar to cancel such name or names. But the parties may appear before said board at the hearing and show cause against said order, and if the board finds them properly registered, or entitled to registry, an order shall be made accordingly, which shall be final. The board may designate any one of the commissioners to hear and determine such matters.

Death list.

SEC. 7. The registrar shall keep in his office a list of all deaths occurring in

said city and county of adult males, as well as of the deaths of such citizens as may come to his knowledge who may die elsewhere, to be alphabetically arranged for convenience of reference. Also all removals or changes of residence, so far as he can learn the same, and commitments to prisons and insane asylums, with time and place, as well as such other information as shall be found useful and within his reach. It shall be the duty of all clerks of courts, prison keepers, health officers, and all other public officers and others, to furnish to said registrar certified statements of such official facts within their knowledge necessary for him to obtain necessary or useful information in and about his said duty on demand.

Appointment of election officers.

SEC. 8. The registrar of voters, under and subject to the rules of the board, must take charge of the business of placing the election officers, and at the last moment, when it is too late to call the board together to fill vacancies, may select and appoint election officers for said purpose. Should any election officer fail to appear at the opening of any election, or at any time during the progress thereof, the officers in attendance may, subject to such rules as the board of commissioners shall provide, fill up the same by appointing any competent citizen. Any person refusing to serve, when so appointed, shall be liable to all the pains and penalties of this act.

Counting of votes to be public.

SEC. 9. The counting of votes, and all proceedings connected therewith, shall be in public, and citizens shall have free ingress and egress to and from the place where the same is being done.

Duty of voters to act as officers of election.

SEC. 10. It is hereby made the duty of any and all voters in the City and County of San Francisco, persons holding office or employment under the United States, the State of California, or the City and County of San Francisco, or any of its departments, excepted, to serve as judges, inspectors, and clerks, or other officers of election, whenever required to do so under the provisions of this act.

List of persons qualified to be election officers.

SEC. 11. It shall be the duty of the registrar to obtain from the tax list and register of voters of said city and county the names of the resident citizens of said city and county possessing the necessary qualifications to act as judges, inspectors, and clerks of election, taking care to select persons of good reputation and character, and have the same placed in a book, so as readily to refer to the places of residence, and the precinct in which they vote. He shall take care that said list shows the names and residences of all taxpayers who reside in said city and county and who are voters, and shall ascertain, as nearly as he can, the capabilities of such voters to act as election officers. If any of them are incompetent to serve by reason of infirmity, and not otherwise, their names may be left off, but the reason must be noted.

Power of commissioners.

SEC. 12. Said board of election commissioners shall select all election officers provided for by law for said city and county, and shall appoint them to their respective places. They shall have the power to make any regulations and rules for the appointment or selection they may deem advisable, so as to secure integrity, impartiality, and capacity for the work to be done; and if the list furnished them by the registrar does not contain a sufficiency of names of

respectable and fit persons for election officers, they must take measures to secure the names of proper persons, citizens and voters of said city and county, and to fill up all appointments as hereinafter provided; provided, that in selecting election officers the commissioners shall take care to select as nearly as possible an equal number of persons of opposite political faith and opinions to serve at each precinct.

Compensation of election officers.

SEC. 13. Each election officer under this act shall be entitled to receive for his services the sum of two dollars per day while actually engaged in said work of receiving and counting votes, to be paid out of the treasury of said city and county, in the manner now provided by law for the payment of such service, and no more; provided, that said board of commissioners may, in their discretion, raise the compensation of clerks for tallying, writing, and other matters requiring special skill and qualifications, to such sum as they shall find necessary to secure such service, but not to exceed six dollars per day; provided, that such increased compensation shall, under no circumstances, be allowed to any judge or inspector; and provided further, that no person holding any office or employment under the United States, the State of California, or the City and County of San Francisco, or any of its departments, nor any candidate for office, or who shall have been either thereof within ninety days, shall be eligible to, or be allowed to serve as an election or registration officer, clerk, or in any manner whatsoever at an election; provided, that the members of the precinct registration boards shall receive for their services, while acting upon the precinct registers, the sum of forty dollars each, in full, for such service.

Notice of appointment.

SEC. 14. Each and every person selected by the board of election commissioners shall be notified by the registrar of voters of the fact of his appointment. Such notice shall be in writing or printed, and shall have printed thereon a copy of this section. Such person, on receipt of such notice, shall appear within the time fixed in the notice, but which shall not be less than five days, before the registrar and any two of the commissioners, for the purpose of examination, and, if found qualified, shall, unless excused by said commissioners by reason of ill-health or other good and sufficient cause, be bound to serve as such officer for the term of one year, from the date of his appointment, unless previously excused or dismissed by the board, and in case of neglect or refusal to comply with the above mentioned requirements, or to serve or act, shall be liable to a penalty of five hundred dollars, recoverable by civil action in any court of competent jurisdiction, in the name of said city and county, and when collected shall be paid into the treasury for the benefit of the election fund. And a failure on the part of any such person to present himself for examination, and to comply with any of the requirements of this act preliminary to receiving his certificate of appointment within the time prescribed, or to attend on the day of any registration, or revision or examination of registration, or the day of any election during said term, unless prevented by sickness or other sufficient cause (the burden of proof of which shall be upon the delinquent), shall be deemed a refusal within the meaning of this section.

Registration; how done.

SEC. 15. The registration of electors in the City and County of San Francisco shall hereafter be done by election or voting precincts, each precinct register being kept separate and distinct from all other precincts. The provisions of

the Political Code requiring the keeping of a great register and ward registers shall no longer be applicable to said city and county. The provisions of said Code as to making and keeping the great register and as to the ward registers and the manner of entering the names of electors therein, and the substance and contents of said entries, and the alterations, changes, and cancellation thereof, as well as the proceedings and proof to enable voters to be registered in said great and ward registers, and all other matters relating thereto, so far as the same are not in conflict or inconsistent with the provisions of this act, are hereby made applicable to the precinct registers of said city and county authorized by this law. And said precinct registers shall be used at all elections in like manner and with like effect that ward registers were used before the passage of this act; and no person shall vote at any election except he be legally registered upon the precinct register of the precinct in which he is a qualified voter.

Precinct registration.

SEC. 16. The registration of electors in the precinct registers in the City and County of San Francisco shall take place previous to each general State election as herein provided, and an elector properly enrolled therein, without being again enrolled, may vote at the general election ensuing his registration and at all special elections between said general election and the next general election, but not afterwards until re-registered according to law.

Place of residence particularized.

SEC. 17. In addition to the matters required by section one thousand and ninety-six of the Political Code to be entered in the register, the precinct registers in the City and County of San Francisco shall particularize the place of residence of each elector registered, by specifying the name of the street; avenue, or other location, of the dwelling of such elector, with the number of such dwelling, if the same has a number, and if not, then with such description of the place that it can be readily ascertained and identified. If the elector be not the proprietor or head of the house, then it must show that fact, and upon what floor thereof, and what room said elector occupies in such house; all of which facts are to be ascertained from such elector in the manner required by law for proving the qualification of electors to entitle them to be registered. Any person making a false oath with respect to residence, as provided for in this section, shall be deemed guilty of perjury, and on conviction punished accordingly.

Blanks for precinct registration.

SEC. 18. A sufficient quantity of blanks for precinct registers for all the precincts of said city and county shall be prepared by said registrar of voters as soon as is practicable after his entry upon office, and as often as required by this act thereafter, and kept at the office of said registrar, so that voters may be registered upon application and proper proof according to law. Ninety days before each general election the registrar shall commence the registration of all voters entitled thereto who apply with the proper proof. Such voters shall be registered in the precinct registers for the precinct where they are entitled to vote, and not otherwise. Such registration shall continue at the office of the registrar until the precinct registers are turned over to the board of precinct registration, as is hereinafter provided for, when it shall cease at said office. Such registration shall be made subject to the rules herein provided for the board of precinct registration.

Board of precinct registration.

SEC. 19. There shall be a board of precinct registration in each precinct of said city and county, which shall be constituted in the following manner: The board of election commissioners, as soon as is practicable after they shall have divided the city and county into election precincts as hereinbefore provided for, shall proceed in the manner provided in section thirteen hereof, to appoint the one original inspector and the two original judges of election provided for in section one thousand one hundred and forty-two of the Political Code for each precinct. Said inspector and judges shall serve for one year, unless otherwise ordered by the commission, and in addition to acting as election officers at all the elections during the year, shall serve as precinct registering officers for enrolling the electors of their respective precincts on the precinct registers thereof. All other election officers shall be appointed by the board of election commissioners at such time as shall be necessary before the election.

Meetings of boards.

SEC. 20. Said boards of precinct registration shall meet in the places provided in their respective precincts for such purpose by the registrar of voters, commencing five days (not counting Sundays or legal holidays) before the day fixed by this act for the cessation of the registration of electors in said city and county, and shall sit in open session from nine o'clock A. M. until ten o'clock P. M. of each day, until the day of such cessation (Sundays and legal holidays excepted), to receive and act upon applications for registration on the part of the voters of said precinct. They shall organize by electing one of their number chairman. They shall receive the applications for registration of such male residents of their several election precincts as then are, or on the day of election next following the day of making such application would be entitled to vote therein, and who shall personally present themselves, and such only.

Places for precinct registration—Duty of registrar.

SEC. 21. It shall be the duty of the registrar of voters to provide suitable places in each precinct for the sessions of the board of precinct registration. He shall also furnish them with blanks, stationery, and all other matters and things necessary to enable them to conveniently and speedily perform the duties devolving upon them under this act. He shall also give such boards his assistance and advice in organizing and conducting the registration of voters and other matters required of them by law, and shall visit said boards, while engaged in said duty, and see that said proceedings are conducted according to law, and the registers made in due form. He shall be allowed free access to the precinct registers at all times, and within such reasonable limits as the board of election commissioners shall prescribe, the public shall have access thereto in like manner.

Cessation of registration at registrar's office.

SEC. 22. As soon as the board of precinct registration shall have commenced their sittings for registration in the several precincts, as herein provided for, registration at the office of the registrar shall cease, and the precinct registers shall be turned over by the registrar to said respective boards, who shall go on with the registration of voters at the places provided by law for them in their respective precincts until the time provided by law for registration to cease, when all registration shall stop, except in the cases specially provided for in section twenty-nine of this act. It shall be the duty of the board of precinct

registration, in addition to their other duties, to carefully examine and revise the names of voters upon their several precinct registers, as turned over to them by the registrar, and to ascertain if such names are the names of legal voters, properly on said precinct register and entitled to vote in said precinct.

Applications for registration in exceptional cases—Examinations—Appeals.

SEC. 23. The board of precinct registration shall keep the several precinct registers for such time as shall be necessary, not to exceed three days after the time for registration ceases according to law, during which time they shall hear and determine applications for registration in the excepted cases provided for in section twenty-nine of this act. They shall also make diligent examination and inquiry during said period as to the right of the respective voters who have been registered on said precinct register to such registration, and shall in all doubtful cases certify their doubts, with the reason thereof, to the board of election commissioners for further action. All persons who are refused registration by the registrar or precinct board can appeal to the board of election commissioners, who shall hear and determine the same in a summary manner, so as not to delay the completion of the registers.

Delivery of precinct registers to registrar.

SEC. 24. When the board of precinct registration have completed the examination and inquiry provided for in the preceding section, they shall certify the precinct register, as is hereinafter provided, and deliver the same to the registrar of voters. Said delivery shall be made not later than three full days after the cessation of registration as provided by law. They shall at the same time prepare and duly certify a separate and distinct list, showing the names of all persons concerning whose right to registration they are in doubt, together with grounds or reasons for such doubt. Such list and certificate shall be delivered to the registrar at the same time with the precinct register. Proper blanks shall be prepared and furnished by the registrar for the purpose of making the return of doubtful names on the registers, and also blank certificates, and all other necessary things for said purpose.

Form of certificate to precinct register.

SEC. 25. The certificate to be attached to the precinct register shall be substantially in the following form, to wit:

We, the undersigned, inspectors and judges of election forming the board of precinct registration for the ——— precinct of the ——— ward, of the City and County of San Francisco, do jointly and severally certify that on the ——— day of ———, 18—, we met and organized as such board, at the place appointed by law for the holding thereof in said precinct. That the precinct register was delivered to us by ———, Esquire, registrar of voters for said city and county, containing at the time of its delivery to us the names of (stating number) voters. That we have examined and inquired into said list to the best of our ability, and have noted all doubtful registration thereon. We also certify that we sat as a board of precinct registration at said place, ———, from the ——— day of ———, till the ——— day of ———, 18—, and have admitted to registration (showing number) citizens, whose names and other matters of qualification will appear upon the foregoing register, and that the whole number of qualified voters upon said register is (number) ———.

Dated, San Francisco, ———, 18—.

(Signed):

(Signed):

(Signed):

— — —,
— — —,
— — —.

Form of certificate of doubtful names.

SEC. 26. The certificate to be annexed to the list of doubtful names shall be substantially in the following form, to wit:

We, the undersigned, composing the board of precinct registration for the — precinct of the — ward, of the City and County of San Francisco, hereby certify that the accompanying list shows all the names and other matters of qualification of voters upon the precinct register for said precinct about whose right to registration we entertain a reasonable doubt, together with a statement of the cause or grounds for such doubts.

Dated, San Francisco, —, 18—.

(Signed):

— —,

(Signed):

— —,

(Signed):

— —.

Doubtful persons to be notified.

SEC. 27. It shall be the duty of the registrar to forthwith notify all persons certified as doubtful, of said fact, and to cite them before the board of election commissioners, as provided in section six of this act, in cases where the registrar has reason to believe persons have been improperly registered, and the same proceedings shall be had as to citation and cancellation as provided for in said section.

Registration subject to what changes.

SEC. 28. Fifteen days before a general election all registration or enrollment of voters shall cease, and the precinct registers as they stand shall be the precinct registers for said ensuing election, and until the next general election, subject only to changes in the following cases:

I. All that for any reason are illegally on the precinct register shall be canceled.

II. Any name that has been once lawfully on the precinct register so as to entitle the person to vote at said ensuing election, and which has been by fraud, mistake, or otherwise improperly removed, may be restored, on proper evidence thereof.

III. Any legal voter who applied in time for enrollment upon a precinct register, and, through any fault or neglect of the registrar, or board of precinct registration, or for want of time on the last day, he having duly applied on said day, has his name left off, may have the same put on afterward, on showing that he applied in time, and that it was through no fault or neglect of his own that it was left off.

Any voter entitled to have his name upon the precinct register under the terms of any of the three preceding subdivisions, and no others, may have the same placed upon the supplementary register provided for in the next section within five days from the time herein provided for the cessation of enrollment on the precinct register. Any person who does not so apply within said time shall not be enrolled on the precinct register for said election; provided, that nothing in this section shall be deemed to prevent any lawful changes, additions, and supplements to said precinct registers after the general election and prior to any special election thereafter to be made under the regulations fixed by the board of election commissioners, and to be used at other than general elections.

Printing of precinct registers.

SEC. 29. As soon as the registrar shall receive the precinct register from any

board of precinct registration, he shall proceed with the greatest diligence to cause said precinct register to be printed, and the same shall be printed and copies of them posted in his office for public inspection within three days. He shall also proceed by means of clerks and other assistants, to be provided by the board of election commissioners, to ascertain by inquiry and examination the correctness of said precinct registers, and to cancel all names not legally thereon, and shall prepare a supplemental list for each precinct, showing the cancellations and additions to the regular list made after the publication of the same, which supplemental list shall be printed and posted in like manner five days before the election, after which no changes shall be made; provided, that all cancellations and additions to the registers made by the registrar shall be subject to the approval of the board of election commissioners. In printing precinct registers each letter of the alphabet shall be commenced upon a new or separate page, and blank pages to a sufficient and proper number shall be left with printed headings only so as to allow for such additional names as are authorized by law to be written in by the registrar supplementary to the printed names.

Notice of expiration of time for registration.

SEC. 30. Not less than ten days before the day for the sitting of the boards of precinct registration, the registrar shall cause an advertisement to be printed for ten consecutive days in three daily morning and three daily evening (including the official paper) newspapers published in said city and county, giving notice to the voters of said city and county, that the time for the enrollment of voters on the precinct registers will expire on a certain day, naming the day, fixed in this act for the last day of registration, and inviting them to present themselves for registration at the place of the meeting of said boards, which shall be named, within the time, under penalty of being debarred the privilege of voting at such election. Such notice shall specify the day upon which the precinct registration by the board of precinct registration shall commence, and also the day upon which it is to end.

Renewal of registration.

SEC. 31. Any elector who has been legally registered in the precinct register, provided he has not changed his residence or otherwise lost his right to vote in his precinct, shall not be required to renew such registration until the making up as herein provided of the precinct register for the next ensuing general election, after the election for which such registration was made, but may vote in such precinct at any election taking place before such general election. The precinct registers shall be printed in sufficient numbers to allow for their being used at all the elections likely to occur before the next general election after the one then for which the registration is made, and all necessary changes or additional names shall be noted upon the register for each special election thereafter, or added in supplements thereto, conformatory so far as the same is applicable to the provisions of the law governing the making of the general election register. The board of election commissioners are hereby empowered to make rules governing such supplemental registration for special elections. The board is also empowered to provide for and regulate all special elections occurring before the making of the first set of precinct registers under this act, and for such elections the ward registers shall be used in the precincts, subject to such rules and regulations as the board of election commissioners shall establish.

Rooms for board of precinct registration and polling places.

SEC. 32. The registrar of voters shall procure rooms or places both for the sitting of the board of precinct registration as well as for polling places, subject to the approval of the board of election commissioners both as to location and cost.

Expenses of registration and elections.

SEC. 33. All provisions for carrying out the registration and election laws in said City and County of San Francisco shall be made by the board of election commissioners, and demands on the treasury authorized or allowed by them for such purpose shall have the same force and effect as if authorized or allowed by the board of supervisors.

Provisions of Political Code.

SEC. 34. All of the provisions of the Political Code touching the registration and qualification of voters and the method of calling, holding and conducting elections in force in said city and county at the passage of this act, shall continue in force therein, so far as they are not inconsistent with the provisions hereof.

SEC. 35. This act takes effect from and after its passage.

An Act to provide a new great register for the County of Yolo, and re-register the voters thereof.

Approved March 26, 1878; 1877-8, 554.

[This act, as indicated in the title, provided for a new great register in Yolo County, and repealed all conflicting acts.]

An Act to provide for transcribing the great register of El Dorado County.

Approved March 29, 1878; 1877-8, 637.

[This act authorized the county clerk of El Dorado County to transcribe the great register of that county.]

An Act to provide a new great register for the County of Fresno and other counties, and to re-register the voters thereof.

Approved March 29, 1878; 1877-8, 693.

[This act provided for new great registers in the Counties of Fresno, Kern, Tulare, Stanislaus, Merced, Amador, Butte, Nevada and Siskiyou, and repealed all conflicting acts.]

1130. Limitations on powers.

SEC. 1130. The following limitations are imposed upon the powers given the supervisors in this chapter:

1. No precinct must be established so as to embrace more than one township, nor in such manner that its exterior limits cross the exterior boundaries of any township, incorporated town or city, or any ward, district, or other territorial subdivision for which local officers are to be elected, except a school or road district.

2. No precinct must be established, nor must the boundaries of one already established, be altered within thirty days next preceding a general or special election. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 370); took effect from passage.*]

1147. Clerks.

SEC. 1147. The board of election for each precinct must, before opening the polls, appoint two electors to act as clerks of election. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 370); took effect from passage.*]

1191. Form of ballots—Vignette.

An Act to prevent the circulation of bogus election tickets, and to prevent frauds upon voters.

Approved March 7, 1878; 1877-8, 180.

Vignette and inscription on election tickets.

SECTION 1. It shall hereafter be lawful for the State central or other managing committee of any political party having a State organization, and for the city or county or other managing committee of any municipal or local party, before each election in this State, to prepare and adopt, by engraving or otherwise, a ticket vignette, or heading, with an appropriate inscription, to be printed at the top of the ticket of the party, on the inside thereof, as a distinctive and characteristic heading thereto. Such vignette shall not be more than two inches high by four and a half inches wide, and in addition to the device adopted shall set forth legibly the fact that the ticket is the regular ticket of the party, with the name thereof. It shall also show the district, ward, or precinct where such ticket may be lawfully voted. Said vignette and inscription shall stand at the head of the ticket, on the inside thereof, and be followed within a space not to exceed one half of an inch, by the word "For" on the first line thereof, and the names of candidates and offices shall then be printed below in the order and manner provided for in section eleven hundred and ninety-one of the Political Code. The length of the tickets to be used at elections in this State hereafter shall, in case the length of tickets now allowed by law is insufficient to permit of the printing of such vignette, or heading, and have sufficient margin at the top and bottom, and not otherwise, be increased two inches in addition to the length prescribed by section one thousand one hundred and ninety-one of the Political Code, in order to allow space for said vignette and inscription.

Copy of vignette to be filed.

SEC. 2. When such vignette and inscription have been adopted and prepared, an impression of the same, followed by the regular ticket of such party, printed so as to constitute a lawful election ballot, and sealed up in an envelope, may be filed with the county clerk of the county at any time before the opening of the polls on election day. Such ballot shall be kept by said clerk on deposit, and from the time of said filing it shall be unlawful for any person to imitate, copy, or in any manner counterfeit the same. Any person violating the foregoing provision shall be deemed guilty of a misdemeanor, and on conviction punished accordingly.

Counterfeiting of vignette.

SEC. 3. Any person who shall knowingly print, circulate, or distribute, any ticket, or tickets, ballot, or voting paper, having therein, or thereon, the vignette, or an imitation of the vignette or inscription, of any ballot or ticket so filed with the county clerk, but containing the name or names of any candidate or candidates, other or different from the name or names, candidate or candidates, upon the ballot or ticket of such party so filed or deposited with said clerk, shall be deemed guilty of a misdemeanor, and on conviction punished accordingly; provided, that nothing in this act shall be construed to interfere with the right of any elector to erase or insert any name or proposition upon said ticket, if done in writing.

Additional matter on tickets.

SEC. 4. Hereafter all tickets, in addition to the matters provided for in section eleven hundred and ninety-one of the Political Code, and immediately

above the word "For," as specified in said section, shall show the name or number of the district, ward, or precinct where the same is to be used, and if such name or number is not contained in the party vignette (as it must be if one is used), then the same shall be printed in capital letters, so as to take up not more than two inches of space, which in all cases shall be added to the lengths of the ticket as established by said section of the Political Code; provided, that the provision of this section shall not be compulsory except in the City and County of San Francisco.

1225. Manner of voting.

SEC. 1225. The person offering to vote must hand his ballot to the inspector, or to one of the judges acting as inspector, and announce his name and the number affixed to it on the register in use at the precinct where he offers his vote; provided, that in incorporated cities and towns the said person shall also give the name of the street, avenue, or location of his residence, and the number thereof, if it be numbered, or such clear and definite description of the place of such residence as shall definitely fix the same. [*Amendment, approved March 30, 1878; Amendments 1877-8, 26; took effect on sixtieth day after passage.*]

1226. Announcement of voter's name.

SEC. 1226. The inspector, or judge acting as such, must receive the ballot, and before depositing it in the ballot-box, must, in an audible tone of voice, announce the name and register number; provided, that in incorporated towns and cities the said inspector, or judge acting as such, shall also announce the residence of the person voting, and the same shall be recorded on the poll-list by the poll clerk. [*Amendment, approved March 30, 1878; Amendments 1877-8, 26; took effect on sixtieth day after passage.*]

1227. Putting ballot in box:

SEC. 1227. If the name be found on the register in use at the precinct where the vote is offered, and the vote is not rejected upon a challenge taken, the inspector, or judge acting as such, must, in the presence of the board of election, place the ballot, without opening or examining the same, in the ballot-box; and no person shall be allowed to vote whose name is not on said register in use at the precinct. [*Amendment, approved March 30, 1878; Amendments 1877-8, 26; took effect on sixtieth day after passage.*]

[The Act containing the last above three amendments provided that nothing therein should be construed to repeal any special election or registration law applicable to the City and County of San Francisco alone, but should be construed as if passed prior thereto.]

1228. Record that person has voted, how kept.

SEC. 1228. When the ballot has been placed in the box one of the judges must write the word "Voted" opposite the number of the person on the printed copy of the register. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 370); took effect from passage.*]

[In reference to record of voting in cases of special elections, see ante, 1117.]

1230. Grounds of challenge.

SEC. 1230. A person offering to vote may be orally challenged by any elector of the county, upon either or all of the following grounds:

1. That he is not the person whose name appears on the register.
2. That he has not resided within the State one year next preceding the election.

3. That he has not been a naturalized citizen of the United States for ninety days prior to the election.

4. That he has not resided within the county for ninety days preceding the election.

5. That he has not resided within the precinct for thirty days next preceding the election.

6. That he has before voted that day.

7. That he has been convicted of an infamous crime.

8. That he has been convicted of the embezzlement or misappropriation of public money. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 370); took effect from passage.*]

1232. Proceedings on challenge for non-residence.

SEC. 1232. If the challenge is on the ground that he has not resided in the State for one year next preceding the election, the person challenged must be sworn to answer questions, and after he is sworn, the following questions must be propounded to him by the inspector:

1. Have you resided in this State for one year immediately preceding this election?

2. Have you been absent from this State within one year immediately preceding this election? If yes, then,

3. When you left did you leave for a temporary purpose, with the design of returning, or for the purpose of remaining away?

4. Did you, while absent, regard this State as your home?

5. Did you, while absent, vote in any other State?

And such other questions as may be necessary to a determination of the challenge. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 370); took effect from passage.*]

1233. Same, on challenge for non-residence in precinct.

SEC. 1233. If the challenge is on the ground that he has not resided in the county for ninety days, or precinct for thirty days next preceding the election, the person challenged must be sworn to answer questions, and after he is sworn, the following questions must be propounded to him by the inspector:

1. When did you last come into this county or election precinct?

2. When you came into this county or precinct, did you come for a temporary purpose merely, or for the purpose of making it your home?

3. Did you come into this county or precinct for the purpose of voting here?

And such other questions as may be necessary to a determination of the challenge. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 371); took effect from passage.*]

1235. Same, on ground of conviction of crime.

SEC. 1235. If the challenge is on the ground that the person challenged has been convicted of an infamous crime, or that he has been convicted of the embezzlement or misappropriation of public money, he must not be questioned, but the fact may be proved by the production of an authenticated copy of the record, or by the oral testimony of two witnesses. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 371); took effect from passage.*]

1237. Trial of challenge.

SEC. 1237. If the challenge is on the ground that the person challenged is not the person whose name appears on the great register, he must take the oath tendered by the board. Challenges for causes other than those specified in the

preceding section, must be tried and determined by the board of election at the time of the challenge. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Bar. ed. 371); took effect from passage.*]

1243.

An Act to prohibit "Piece Clubs," and to prevent extortion from candidates for office.

Approved March 14, 1878; 1877-8, 236.

Assessments for election expenses to be voluntary.

SECTION 1. All payments and contributions of money for election expenses, made by candidates for office in this State, shall hereafter be assessed and made by such candidates by voluntary assessment among themselves, and not otherwise, and at meetings to be called for such purpose, at which meetings none but candidates for office at the next ensuing election shall be present or participate.

Candidates paying contributions not agreed upon—Misdemeanor.

SEC. 2. Any person being a candidate for office in this State, who shall directly or indirectly pay, or knowingly cause to be paid, any money or other valuable thing to any person, as an assessment or contribution for the expenses of the election at which such person or candidate is to be voted for, except the contribution or assessment so agreed upon by such meeting of candidates, shall be deemed guilty of a misdemeanor, and, upon conviction, punished accordingly.

Committees and conventions not to make assessments.

SEC. 3. It shall not be lawful for any committee, convention, or other association, formed for the purpose of nominating a candidate or candidates for office in this State, to levy, assess, collect, demand, or receive, directly or indirectly, any money or other valuable thing from any candidate or candidates nominated for office by such committee, convention, or other association, either for the expenses of printing or distributing tickets, or for any of the expenses of the election of such candidate or candidates, or as or for the expenses of such nominating convention, committee, or other association, or under or upon any pretense whatsoever.

Misdemeanors by members of committees or conventions.

SEC. 4. Any officer or member of any such committee, convention, or association, or other person, who shall vote for, aid, authorize, assist, or consent to any such levy, assessment, or collection, from any candidate or candidates, shall be deemed guilty of a misdemeanor, and, on conviction, punished accordingly.

Asking money from candidates.

SEC. 5. Any person who shall demand, ask for, collect, or receive, either directly or indirectly, any money or other valuable thing from any candidate or candidates for office in this State, on the ground that such money or other valuable thing has been assessed to such candidate or candidates, or asked for, demanded, or required by any person, nominating convention, committee, or other political association, as or for the costs of printing or distributing tickets, or for the payment of election expenses of any kind or nature whatsoever, or as or for the expenses of such nominating committee, convention, or association, shall, for each offense, be deemed guilty of a misdemeanor, and, on conviction, shall be punished accordingly; but nothing herein contained shall prevent the candidates at any election from assembling together, and voluntarily assessing themselves for any expenses authorized by law for the common

good of the ticket, and to collect and disburse the same by agents appointed for such purpose.

Working for candidates in expectation of compensation.

SEC. 6. Any person who shall voluntarily and unsolicited offer to work for and assist, or in any manner whatsoever contribute to the nomination or election of any candidate or other person to any office in this State, for the purpose and with the intent to have such candidate or person pay for, or in any manner compensate such person so offering for such work or services, shall be deemed guilty of a misdemeanor, and, on conviction, punished accordingly.

SEC. 7. This act shall apply only to the City and County of San Francisco.

SEC. 8. This act shall take effect and be in force from and after its passage.

1284. *Certificates issued by clerk.*

SEC. 1284. The county clerk must immediately make out and deliver to such person (except to the person elected superior judge) a certificate of election signed by him, and authenticated with the seal of the superior court. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 109); took effect immediately; also approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 371); took effect from passage.*]

1285. *District returns, how made up.*

SEC. 1285. When there are officers, other than representatives in congress, members of the State board of equalization, and railroad commissioners, voted for, who are chosen by the electors of a district composed of two or more counties, each of the county clerks of the counties composing such district, immediately after making out the statement specified in section twelve hundred and eighty-two, must make a certified abstract of so much thereof as relates to the election of such officers. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 371); took effect from passage.*]

1288. *State returns, how made.*

SEC. 1288. When there has been a general or special election for officers chosen by the electors of the State at large, or for judicial officers (except justices of the peace), or for members of the State board of equalization, or for railroad commissioners, each county clerk, so soon as the statement of the vote of his county is made out and entered upon the records of the board of supervisors, must make a certified abstract of so much thereof as relates to the votes given for persons for said offices to be filled at such election. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 372); took effect from passage.*]

1290. *Duty of secretary of State, relative to.*

SEC. 1290. On the fortieth day after the day of election, or so soon as the returns have been received from all the counties of the State, if received within that time, the secretary of State must compare and estimate the vote, and make out and file in his office a statement thereof, and transmit a copy of such statement to the governor. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 372); took effect from passage.*]

1310. *Messenger, when clerk may employ.*

SEC. 1310. If the county clerk of any county has reason to believe that the abstract will not, in the due course of mail, reach the secretary of State before the time fixed by law for canvassing the returns of such election, he may, with the approval of the superior judge, employ a person to convey and deliver

1310-1415 AMENDMENTS TO THE POLITICAL CODE.

such abstract to the secretary of State. [*Amendment, approved April 3, 1880; Amendments 1880, 20 (Ban. ed. 109); took effect immediately; also approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 372); took effect from passage.*]

1311. *Proof of necessity for appointment of messenger.*

SEC. 1311. In the event provided for in the preceding section, the clerk must make an affidavit, setting forth the reasons for his belief, and the name of the person employed by him, which affidavit, with the approval of the superior judge indorsed thereon, must be given to the person appointed, and by him, with the abstract, must be delivered to the secretary of State. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 372); took effect from passage.*]

1343. *Representatives in congress; election, when held.*

SEC. 1343. At the general election to be held in the year eighteen hundred and eighty, and at the general election every two years thereafter, there must be elected, for each congressional district, one representative to the congress of the United States. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 372); took effect from passage.*]

UNIVERSITY OF CALIFORNIA.

1405.

An Act to appropriate twenty-five thousand dollars to be used co-jointly with a like sum of twenty-five thousand dollars, donated by H. D. Bacon, for the construction of a building to be erected on the State University grounds, in Alameda County, for a library and art gallery.

Approved April 1, 1878; 1877-8, 930.

[The act made the appropriation referred to in the title, and directed a warrant to be drawn in favor of the regents for the amount named.]

An Act to encourage the planting of jute.

Approved April 9, 1880; 1880, 27 (Ban. ed. 154).

[This act directed the president of the State agricultural college to cause to be planted not less than one nor more than five acres of ground in jute, for the purpose of testing the practicability of its successful cultivation in California.]

1415.

An Act to consolidate certain funds and to create therefrom a permanent endowment for the University of California, of which the interest only shall be used by the board of regents to meet current expenses.

Approved March 19, 1878; 1877-8, 387.

"Consolidated Perpetual Endowment Fund of the University of California."

SECTION 1. That the entire principal sums which have been or may be hereafter realized from the several sources of income and endowment funds of university of California, to wit, the principal sum derived from the sale of lands granted to the State of California by act of congress, approved July 2, 1872, and amendments thereto, and the principal sum derived from the sale of the seventy-two (72) sections of land granted to the State of California for the use of a seminary of learning, by act of congress, approved March 3, 1853, and the principal sum derived from the sale of the ten (10) sections of land granted to the State of California for public buildings, by said act of congress, approved March 3, 1853, and the principal sum which the treasurer of the State of California was directed, by act of the legislature, approved April 2, 1870, to place to the credit of the university fund, and which, being invested in the bonds of the State, or of the United States, should yield an annual income of fifty thousand dollars, and the principal sum now remaining on hand derived from the sale of the real estate in Oakland, Alameda County, and State of Califor-

nia, known as the "Brayton property," shall be from time to time, as the same is realized, invested in stocks of the United States or of the State, or other safe stocks or bonds, yielding not less than five (5) per centum upon the par value of said stocks or bonds, and the money so invested shall constitute a perpetual fund, to be known and designated as the "Consolidated Perpetual Endowment Fund of the University of California," the capital of which shall remain forever undiminished; provided, that any moneys realized from said sources of income or endowment funds, or either of them, which have been heretofore invested according to law, may remain so invested; and it is further provided, that all such stocks and bonds as aforesaid shall be deposited in the State treasury to the credit of said fund, and shall be kept separate and apart from all other funds by the State treasurer, who shall pay over from time to time all interest, profits, income, or revenue arising from such stocks or bonds to the treasurer of said university upon the demand or order of the regents of the university.

Use of income for current expenses.

Sec. 2. That all interest, profits, or revenue arising from or growing out of the said "Consolidated Permanent Endowment Fund of the University of California" shall be placed in the general fund of the university, and subject to disbursement to meet the current annual expenses of the university of California.

Sec. 3. That all acts or parts of acts in conflict herewith are hereby repealed.

An Act to create a commission to examine and report the condition of certain funds.

Approved April 1, 1878; 1877-8, 928.

[This act appointed the controller, surveyor-general, attorney-general, and treasurer of State, to examine and report to the legislature the condition of the various grants and funds in which the university was interested.]

1477.

An Act to create Hastings' College of the Law, in the university of the State of California.

Approved March 26, 1878; 1877-8, 539.

[This act provided for the creation of the law school mentioned in the title, and guaranteed the payment of the interest, at the rate of seven per cent. per annum, upon the sum of one hundred thousand dollars, paid into the State treasury by S. C. Hastings, as a fund for the support of the institution. The college was to affiliate with the university and become the law department thereof.]

1507.

An Act to provide for the erection of a building for the use of the normal school.

Approved April 12, 1880; 1880, 40 (Ban. ed. 192.)

[By this act one hundred thousand dollars was appropriated for the rebuilding of the normal school-house at San Jose, which had been destroyed by fire a short time previously.]

PUBLIC SCHOOLS.

1517. *State board of education, how constituted.*

Sec. 1517. The State board of education consists of the governor, the superintendent of public instruction, and the principal of the State normal school. [Amendment, approved April 7, 1880; Amendments 1880, 28 (Ban. ed. 131); took effect immediately.]

1521. *General powers and duties.*

Sec. 1521. The powers and duties of the board are as follows:

First—To adopt rules and regulations, not inconsistent with the laws of this

State, for its own government, and for the government of the public schools and district school libraries.

Second—To recommend rules for the examination of teachers.

Third—To recommend the course of study in the public schools.

Fourth—To recommend a list of books for district school libraries.

Fifth—To grant:

1. Educational diplomas, valid for six years; and,
2. Life diplomas.

Sixth—To revoke, for immoral conduct, or evident unfitness for teaching, life diplomas, educational diplomas, and State certificates heretofore issued.

Seventh—To have done by the State printer, or other officer having the management of the State printing, any printing required by it.

Eighth—To adopt and use, in the authentication of its acts, an official seal.

Ninth—To keep a record of its proceedings.

Tenth—State educational diplomas must be issued to such persons only as have held a first-grade State, city, or county, or city and county, certificate for at least one year, and shall furnish satisfactory evidence of having been successfully engaged in teaching for at least five years. Every application for an educational diploma must be accompanied by a certified copy of a resolution adopted by a local or county board of education, recommending that the same be granted.

Eleventh—Life diplomas must be issued upon all and the same conditions as educational diplomas, except that the applicant must furnish satisfactory evidence of having been successfully engaged in teaching for at least ten years.

Twelfth—To designate some educational monthly journal as the official organ of the department of public instruction. One copy of journal so designated shall be furnished by the county superintendent to the clerk of each board of district trustees, to be by him placed in the district library. The county superintendent of schools shall draw his warrant semi-annually in favor of the publishers of such school journal, and charge the same to the library fund of the district; provided, that the sum so drawn shall in no case exceed one dollar and fifty cents per annum for each school district. [*Amendment, approved April 7, 1880; Amendments 1880, 28 (Ban. ed. 132); took effect immediately.*]

1532. *General duties of superintendent of public instruction.*

Sec. 1532. It is the duty of the superintendent of public instruction:

First—To superintend the public schools in this State.

Second—To report to the governor, on or before the fifteenth of December preceding each regular session of the legislature, a statement of the condition of the State normal school and other educational institutions supported by the State, and of the public schools.

Third—To accompany his report with tabular statements showing the number of school children in this State; the number attending public schools, and the average attendance; the number attending private schools, and the number not attending schools; the amount of State school fund apportioned and sources from which derived; the amount raised by county and district taxes, or from other sources of revenue, for school purposes; and the amount expended for salaries of teachers and for building school-houses.

Fourth—To apportion the State school fund, and furnish the controller, State board of examiners, and each county treasurer and county superintendent with an abstract of such apportionment.

Fifth—To draw his order on the controller in favor of each county treasurer for school moneys apportioned to the county.

Sixth—To prepare, have printed, and furnish all officers charged with the administration of the laws relating to public schools, and to teachers, such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by county boards of education.

Seventh—To have the law relating to public schools printed in pamphlet form, and annex thereto forms for making reports and conducting school business, the course of study, rules and regulations, a list of library books, and such suggestions on school architecture as he may deem useful.

Eighth—To supply school officers and teachers, school libraries, and State libraries with one copy each of the pamphlets mentioned in the preceding subdivisions.

Ninth—To visit the several orphan asylums to which State appropriations are made, and examine into the course of instruction therein.

Tenth—To visit the schools in the different counties and inquire into their condition; and the actual traveling expenses thus incurred, provided they do not exceed fifteen hundred dollars per annum, shall be allowed, audited, and paid out of the general fund in the same manner as other claims are audited and paid.

Eleventh—To authenticate with his official seal all drafts or orders drawn on him, and all papers and writings issued from his office.

Twelfth—To have bound, at an annual expense of not more than one hundred dollars, all valuable school reports, journal, and documents in his office, or hereafter received by him, payable out of the State school fund.

Thirteenth—To deliver over, at the expiration of his term of office, on demand, to his successor, all property, books, documents, maps, records, reports, and other papers belonging to his office, or which may have been received by him for the use of his office.

Fourteenth—He shall have power to call biennially a convention of county superintendents, to assemble at such time and place as he shall deem most convenient, for the discussion of questions pertaining to the supervision and administration of the public schools, the laws relating thereto, and such other subjects affecting the welfare and interests of the public schools as shall properly be brought before it. It is hereby made the duty of all county superintendents to attend and take part in the proceedings of such convention when it is called; and the actual traveling expenses of county superintendents in going to and from the convention shall be allowed by the board of supervisors, and paid out of the same fund as the salary of the county superintendent is paid. [*Amendment, approved April 7, 1880; Amendments 1880, 29 (Ban. ed. 132); took effect immediately.*]

1543. General duties of county superintendents.

SEC. 1543. It is the duty of the county superintendent of each county:

First—To apportion the school moneys of each school district quarterly; and whenever, at the close of the school year, any money has accumulated to the credit of a school district, by reason of a large census roll and small attendance, in excess of a reasonable amount required to maintain the schools six months in such district, the superintendent of schools shall apportion the same as other county school funds are apportioned. If, in any school district, there shall be an average attendance for three months of only five pupils or less, such

district shall lapse, and the moneys in the treasury of the county belonging thereto shall be apportioned by the county superintendent among the other districts of his county in proportion to the number of census children in such district.

Second—On the order of the board of trustees, or board of education, to draw his requisition upon the county auditor for all necessary warrants against the school fund of any city, town, or district. The requisitions must be drawn in the order in which the orders therefor are filed in his office. The aggregate amount of the requisitions drawn against any fund, in any one year, shall not exceed ninety per centum of the estimated amount of the fund for the year, calculated upon the basis of the preceding year's apportionment of State and county moneys, added to the estimated product of any taxes levied by authority of the district, until the final apportionment of funds for the year has been made, and then must not exceed that apportionment and such district tax. Each requisition must state on its face the estimated amount of the fund upon which it is drawn for the year, and the aggregate amount of the requisitions previously drawn against it. Each requisition must specify the purpose for which it is drawn. Upon receipt of such requisition the county auditor shall draw his warrant upon the county treasurer, specifying in each warrant the estimated amount of the fund upon which it was drawn for the year, the aggregate amount of the warrants previously drawn against it, and the purpose for which the money is required.

Third—To keep, open to the inspection of the public, a register of requisitions, showing the fund upon which the requisitions have been drawn, the number thereof, in whose favor, and for what service drawn, and also a receipt from the person to whom the requisition was delivered.

Fourth—To visit and examine each school in his county at least twice in each year, and for every school not so visited the board of supervisors must, on proof thereof, deduct ten dollars from the county superintendent's salary.

Fifth—To preside over Teachers' Institutes held in his county, and to secure the attendance thereat of lecturers competent to instruct in the art of teaching; to enforce the course of study, the use of text-books, and the rules and regulations for the examination of teachers prescribed by the proper authority.

Sixth—Upon the order of county boards of education, to issue temporary certificates, valid until the next regular meeting of the county board of education, to persons holding certificates of like grade granted in other counties, or upon any certificates or diplomas upon which county boards are empowered to grant certificates without examination, as specified in section seventeen hundred and seventy-five; provided, that no person shall be entitled to receive such temporary certificate more than once.

Seventh—To distribute all laws, reports, circulars, instructions, and blanks which he may receive, for the use of school officers.

Eighth—To keep in his office the reports of the superintendent of public instruction.

Ninth—To keep a record of his official acts, and of the proceedings of the county board of education, including a record of the standing in each study of all applicants examined.

Tenth—To (except in incorporated cities and towns) pass upon and approve or reject plans for school-houses.

Eleventh—To appoint trustees to fill all vacancies created by failure to elect, or otherwise, to hold till the next annual election.

Twelfth—To make reports, when directed by the superintendent of public instruction, showing such matters relating to the public schools in his county as may be required of him.

Thirteenth—In all counties containing twenty thousand inhabitants or upwards, to devote his whole time to the supervision of the schools in his county.

Fourteenth—To carefully preserve all reports of school officers and teachers, and at the close of his official term, deliver to his successor all records, books, documents, and papers belonging to the office, taking a receipt for the same, which shall be filed in the office of the county clerk.

Fifteenth—The county superintendent shall, unless otherwise provided by law, in the month of July in each year, grade each school, which shall be made of record, in a book to be kept by the county superintendent in his office for said purpose; and no teacher holding a certificate below the grade of said school shall be employed to teach the same. All schools shall be designated as primary and grammar. [*Amendment, approved April 7, 1880; Amendments 1880, 31 (Ban. ed. 134); took effect immediately.*]

1545. *May appoint teachers and open schools, when.*

SEC. 1545. He must, when there is sufficient money in the fund of any school district to maintain a free school therein for six months, if the trustees fail to have such school kept, appoint a teacher, and open and keep such school, and may draw his requisition upon the county auditor, who shall draw his warrant upon the fund of such district for the expense incurred. [*Amendment, approved April 7, 1880; Amendments 1880, 32 (Ban. ed. 136); took effect immediately.*]

1546. *May direct repairs, etc., when.*

SEC. 1546. He may, in his discretion, require the trustees of any district to repair the school buildings or property, or to abate any nuisance in or about the premises, if such repairs or abatement can be done for a sum not exceeding fifty dollars, and there is a sufficient amount of money in the treasury to the credit of the district. He may also, in all cases, require the trustees to provide suitable outhouses, and, where practicable, to adorn the grounds with fruit and ornamental trees and shrubbery; and if the trustees neglect to make such provision, he may cause it to be done, and pay for it on his requisition upon the county auditor, who shall draw his warrant payable out of any money to the credit of the district. [*Amendment, approved April 7, 1880; Amendments 1880, 33 (Ban. ed. 136); took effect immediately.*]

1548. *Warrants for expenses and claims.*

SEC. 1548. He may draw his requisition upon the county auditor, who shall draw his warrant on the unapportioned county school fund in his own favor, for the binding of school documents, not to exceed twenty dollars a year; for postage and expressage for his office, not to exceed one dollar for each district in his county; and for such other incidental expenses as may be authorized by law; provided, that not more than one half of such allowance shall be used during the first six months of any school year; except by unanimous consent of the board of supervisors. [*Amendment, approved April 9, 1880; Amendments 1880, 33 (Ban. ed. 137); took effect immediately.*]

1550. *Compensation of deputy in certain cities.*

SEC. 1550. The deputy school superintendent of any city, or city and county, having over one hundred thousand inhabitants, may receive such compensation as the board of education thereof prescribes, payable in the same manner and

out of the same fund as the school superintendent thereof is paid. [*Amendment, approved April 7, 1880; Amendments 1880, 33 (Ban. ed. 137); took effect immediately.*]

1551. *Report to superintendent of public instruction.*

SEC. 1551. Each school superintendent in this State must, on or before the first day of August in each year, report to the superintendent of public instruction, and to the board of supervisors of their respective counties, the number of children in their counties between the ages of five and seventeen years, as appears by the latest returns of the census marshals on file in their office. It shall be the duty of every county superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the board of supervisors, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting, or incorrectly described, he shall, upon the order of the board of supervisors, change, harmonize, and describe them, and make a report of such action to the supervisors, and, on being ratified by the supervisors, the boundaries and descriptions so made shall be the legal boundaries and descriptions of the districts of that county. The county superintendent, if he deem it necessary for the guidance of school census marshals, may order the description of the district boundaries printed in pamphlet form, and pay for the same out of the county school fund. [*Amendment, approved April 7, 1880; Amendments 1880, 33 (Ban. ed. 137); took effect immediately.*]

1551.

[Sec. 1551, relating to duty of county superintendents as to boundaries of school districts, was repealed by act of April 7, 1880; Amendments 1880, 47 (Ban. ed. 152); took effect immediately.]

1564. *Expenses of institute, how kept and paid.*

SEC. 1564. The county superintendent must keep an accurate account of the actual expenses of said institute, with vouchers for the same, and draw his requisition upon the county auditor, who shall draw his warrant on the unapportioned county school fund to pay said amount; provided, that such amount must not exceed one hundred dollars for any one year. [*Amendment, approved April 7, 1880; Amendments 1880, 34 (Ban. ed. 137); took effect immediately.*]

1565. *Fee for teachers' certificates.*

SEC. 1565. Every applicant for a teacher's certificate, upon presenting himself for examination, or for a certificate upon the life diploma or normal school diploma of any State other than California, shall pay to the county superintendent a fee of one dollar, to be by him immediately deposited with the county treasurer to the credit of a fund to be known as the teachers' institute fund. All funds so credited shall be drawn out only upon the requisition of the county superintendent of schools upon the county auditor, who shall draw his warrant in payment for the services of such instructors in the county teachers' institute, as shall not be residents of that county. [*New section, approved April 7, 1880; Amendments 1880, 34 (Ban. ed. 137); took effect immediately.*]

1576. *What forms district.*

SEC. 1576. Each county, city, or incorporated town, unless subdivided by the legislative authority thereof, forms a school district; provided, the board of supervisors may include more territory than that now included within the boundaries of any incorporated town. [*Amendment, approved March 22, 1878; Amendments 1877-8, 28; took effect sixtieth day after passage.*]

1577. Formation and changing of boundaries of districts.

SEC. 1577. No new district can be formed unless the parents or guardians of at least fifteen census children, resident of such proposed new district, and residing at a greater distance than two miles from any school-house, present a petition to the county superintendent, setting forth the boundaries of the new district asked for. The boundaries of any district can not be changed unless at least ten heads of families, residing in the district affected by the proposed change, present a petition to the county superintendent, setting forth the change of boundaries desired and the reasons for the same; provided, that two or more districts lying contiguous may, upon the petition of a majority of the heads of families residing in each of said districts, be united to constitute but one district. [*Amendment, approved April 7, 1880; Amendments 1880, 34 (Ban. ed. 138); took effect immediately.*]

1583. Apportionment of money in divided districts.

SEC. 1583. Whenever a district lies partly in one county and partly in another, the county superintendent must apportion to such district such proportion of the school money to which such district is entitled, as the number of school census children residing in that portion of the district situate in his county bears to the whole number of school census children in the whole district. The text-books to be used, and the rules governing the school in such district, shall be those adopted by the board of education of the county in which a majority of the census children of such district reside. The trustees and teachers of joint districts shall make to the superintendents of each county in which the district is located, the reports which other trustees and teachers are required to make, and also the number of pupils attending the school from each county. [*New section, approved April 7, 1880; Amendments 1880, 34 (Ban. ed. 138); took effect immediately.*]

1593. Election for trustees, when and where held.

SEC. 1593. An election for school trustees must be held in each district on the first Saturday of May of each year, at the district school-house, if there is one, and if there is none, at a place to be designated by the board of trustees:

First—The number of school trustees for any school district, except when city boards are otherwise authorized by law, shall be three. No person shall be deemed ineligible to the office of trustee on account of sex.

Second—In new school districts, or in case of a vacancy for any cause in an old one, the school trustees shall be elected to hold office for one, two, and three years, respectively, from the first Saturday of July next succeeding their election.

Third—Except as provided in subdivision second of this section, one trustee shall be elected annually, to hold office for three years, or until his successor shall be elected and qualified. [*Amendment, approved April 7, 1880; Amendments 1880, 35 (Ban. ed. 138); took effect immediately.*]

1597. Opening and closing polls.

SEC. 1597. In districts in which the number of children between five and seventeen years of age exceed five hundred, the polls must be opened at eight o'clock A. M., and kept open until sundown. In other districts, the polls must not be opened before nine o'clock A. M., nor kept open less than four hours. [*Amendment, approved April 7, 1880; Amendments 1880, 35 (Ban. ed. 139); took effect immediately.*]

1598. *Who may vote.*

SEC. 1598. Every qualified elector of the county, who has resided in the district for thirty days next preceding the election, may vote thereat. [*Amendment, approved April 7, 1880; Amendments 1880, 35 (Ban. ed. 139); took effect immediately.*]

1600. *Challenges.*

SEC. 1600. Any person offering to vote may be challenged by any elector of the district, and the judges of election must thereupon administer to the person challenged an oath, in substance as follows: "You do swear that you are a citizen of the United States, that you are twenty-one years of age, that you have resided in this State one year, in this county ninety days, and in this school district thirty days next preceding this election, and that your name is on the great register of this county, and that you have not before voted this day." If he takes the oath prescribed in this section, his vote must be received, otherwise his vote must be rejected. [*Amendment, approved April 7, 1880; Amendments 1880, 35 (Ban. ed. 139); took effect immediately.*]

1611. *School district government.*

SEC. 1611. Except when otherwise authorized by law, every school district shall be under the control of a board of school trustees, consisting of three members. [*Amendment, approved April 7, 1880; Amendments 1880, 36 (Ban. ed. 139); took effect immediately.*]

1616. *Boards of education in cities.*

SEC. 1616. Boards of education are elected in cities under the provisions of the laws governing such cities, and their powers and duties are as prescribed in such laws, except as otherwise in this chapter provided. [*Amendment, approved April 7, 1880; Amendments 1880, 36 (Ban. ed. 139); took effect immediately.*]

1617. *General powers of boards of trustees and of education.*

SEC. 1617. The powers of boards of trustees of school districts, and of boards of education in cities, are as follows:

First—To prescribe and enforce rules not inconsistent with law, or those prescribed by the State board of education, for their own government and the government of schools.

Second—To manage and control the school property within their districts.

Third—To purchase school furniture and apparatus, and such other things as may be necessary for the use of schools.

Fourth—To rent, furnish, repair, and insure the school property of their respective districts.

Fifth—When directed by a vote of their district, to build school-houses, or to purchase or sell school lots.

Sixth—To make, in the name of the district, conveyances of all property belonging to the district, and sold by them.

Seventh—To employ the teachers, janitors, and employés of schools; to fix and order paid their compensation, unless the same be otherwise prescribed by law; provided, that no board of trustees shall enter into any contract with such employés to extend beyond the thirtieth day of June next ensuing.

Eighth—To suspend or expel pupils for misconduct.

Ninth—To exclude from schools children under six years of age.

Tenth—To enforce in schools the course of study and the use of the text-books prescribed and adopted by the proper authority.

Eleventh—To appoint district librarians, and enforce the rules prescribed for the government of district libraries.

Twelfth—To exclude from schools and school libraries, all books, publications, or papers of a sectarian, partisan, or denominational character.

Thirteenth—To furnish books for the children of parents unable to furnish them.

Fourteenth—To keep a register, open to the inspection of the public, of all children applying for and entitled to be admitted in the schools, and to notify the parent or guardian of such children when vacancies occur, and receive such children in the schools in the order in which they are registered.

Fifteenth—To make arrangements with the trustees of any adjoining district for the attendance of such children in the school of either district as may be best accommodated therein, and to transfer the school moneys due by apportionment to such children to the district in which they may attend school; and in case the trustees fail to agree, the parents of such children may appeal to the county superintendent, whose decision shall be final.

Sixteenth—On or before the first day of June in each year to appoint a school census marshal, and notify the school superintendent thereof.

Seventeenth—To make an annual report, on or before the first day of July, to the school superintendent, in the manner and form and on the blanks prescribed by the superintendent of public instruction.

Eighteenth—To make a report whenever required, directly to the superintendent of public instruction, of the text-books used in their schools.

Nineteenth—To visit every school in their district at least once in each term, and examine carefully into its management, condition, and wants. This clause to apply to each and every member of the board of trustees.

Twentieth—Boards of trustees may call meetings of the qualified electors of the district for determining or changing the location of the school-house, or for consultation in regard to any litigation in which the district may be engaged, or be likely to become engaged, or in regard to any other affairs of the district. Such meetings shall be called by posting notices in the usual places for not less than three weeks previous to the time for which the meeting shall be called; which notices shall specify the purposes for which said meeting shall be called, and no other business shall be transacted at such meeting. District meetings shall be organized by choosing a chairman from the electors present, and the district clerk shall be clerk of the meeting, and shall enter the minutes thereof in the records of the district. A meeting so called shall be competent to instruct the board of trustees:

1. In regard to the location or change of location of the school-house;

2. In regard to the purchase and sale of school sites;

3. In regard to prosecuting, settling, or compromising any litigation in which the district may be engaged, or be likely to become engaged, and may vote money, not exceeding one hundred dollars in any one year, for any of those purposes, in addition to any amount which may be raised by the sale of district school property. All funds raised by sale of school property may be disposed of by direction of a district meeting. District meetings may be adjourned from time to time as found necessary; and all votes instructing the board of trustees shall be taken by ballot, or by ayes and noes vote, as the meeting may determine. The board of trustees shall in all cases be bound by the instructions of the district meeting in regard to the subjects mentioned in

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this section. [*Amendment, approved April 7, 1880; Amendments 1880, 36 (Ban. ed. 140); took effect immediately.*]

1618. *Salaries of school teachers.*

SEC. 1618. *First*—In all consolidated cities and counties containing more than one hundred thousand inhabitants, the following salaries shall be paid to teachers in the schools: To principals of grammar schools, two thousand four hundred dollars per annum; to vice-principals of grammar schools, one thousand six hundred dollars per annum; to assistants of grammar schools, first and second grades, of ten years' experience, one thousand and eighty dollars per annum; to assistants of grammar schools, first and second grades, of five years' experience, nine hundred and sixty dollars per annum; to assistants of grammar schools, third and fourth grades, of ten years' experience, nine hundred and ninety-six dollars per annum; of five years' experience, nine hundred and forty-eight dollars; to principals of primary schools, eight or more, one thousand eight hundred dollars per annum; five classes and less than eight, one thousand five hundred dollars per annum; four classes and less, one thousand two hundred dollars per annum; to assistants of primary schools, ten years' experience, nine hundred and sixty dollars per annum; five years' experience, nine hundred dollars per annum; assistants of grammar and primary schools, fourth year, eight hundred and forty dollars per annum; third year, seven hundred and eighty dollars per annum; second year, seven hundred and twenty dollars per annum; first year, six hundred dollars per annum.

Second—When the board of education make their annual estimate of the amount of money required for purposes of salaries for teachers, they shall estimate the said amount upon the basis fixed by this section; and when the board of supervisors make their annual levy of the taxes required for purposes of salaries for teachers, they shall levy said amount also upon the basis fixed by this section, and the money so appropriated for teachers' salaries shall not be used for other purposes. [*New section, approved April 2, 1880; Amendments 1880, 17 (Ban. ed. 105); took effect immediately.*]

1619. *Schools must be maintained for equal length of time.*

SEC. 1619. The boards of trustees and city boards of education must maintain all the schools established by them for an equal length of time during the year, and as far as practicable, with equal rights and privileges. [*Amendment, approved April 7, 1880; Amendments 1880, 37 (Ban. ed. 141); took effect immediately.*]

1620. *Stationery, etc., to be furnished to pupils.*

SEC. 1620. Writing and drawing paper, pens, ink, blackboard rubbers, and lead and slate pencils for the use of the schools, must be furnished under the direction of the city boards of education and boards of trustees, and charges therefor must be audited and paid as other claims against the school fund of their districts are audited and paid. [*Amendment, approved April 7, 1880; Amendments 1880, 38 (Ban. ed. 142); took effect immediately.*]

1621. *School moneys, how used.*

SEC. 1621. The board of trustees and city board of education must use the school moneys received from the State or county apportionments exclusively for the support of schools for that school year, until at least an eight months' school has been maintained; if, at the end of any year, there is an unexpended balance, it may be used for the payment of claims against the district out-

standing, or it may be used for the year succeeding. [*Amendment, approved April 7, 1880; Amendments 1880, 38 (Ban. ed. 142); took effect immediately.*]

1622. Same.

SEC. 1622. Boards of trustees may use the county school moneys for any of the purposes authorized by this chapter, but all State school moneys must, except the ten per cent. reserved for district school library purposes, be applied exclusively for the payment of teachers of primary and grammar schools. [*Amendment, approved April 7, 1880; Amendments 1880, 38 (Ban. ed. 142); took effect immediately.*]

1624. Liabilities of board for taxes, etc.

SEC. 1624. If any board of trustees, or city board of education, fail to appoint a census marshal at the proper time, and through such failure the district is omitted in the apportionment of school moneys, the trustees or members of the city board of education are jointly and severally personally liable to the district for the full amount which the district would have received but for such failure; and the amount may be recovered in an action brought by any citizen of such district or city in the name of and for the benefit of the district or city. [*Amendment, approved April 7, 1880; Amendments 1880, 38 (Ban. ed. 142); took effect immediately.*]

1652.

[Sec. 1652, relating to the clerk acting as assessor or collector or both, was repealed by act of April 7, 1880; Amendments 1880, 47 (Ban. ed. 152); took effect immediately.]

1662. Who may be admitted to schools.

SEC. 1662. Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district; and the board of trustees, or city board of education, have power to admit adults and children not residing in the district, whenever good reasons exist therefor. Trustees shall have the power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases. [*Amendment, approved April 7, 1880; Amendments 1880, 38 (Ban. ed. 142); took effect immediately.*]

1663. Grades.

SEC. 1663. All schools, unless otherwise provided by law, must be divided into primary and grammar grades. [*Amendment, approved April 7, 1880; Amendments 1880, 38 (Ban. ed. 143); took effect immediately.*]

1665. Instruction, branches in.

SEC. 1665. Instruction must be given in the following branches, in the several grades in which each may be required, viz.: Reading, writing, orthography, arithmetic, geography, grammar, history of the United States, elements of physiology, vocal music, elements of book-keeping, and industrial drawing. [*Amendment, approved April 7, 1880; Amendments 1880, 39 (Ban. ed. 143); took effect immediately.*]

1666. Other studies.

SEC. 1666. Other studies may be authorized by the State board of education, or board of education of any county, city, or city and county; but no such studies can be pursued to the neglect or exclusion of the studies in the preceding section specified. [*Amendment, approved April 7, 1880; Amendments 1880, 39 (Ban. ed. 143); took effect immediately.*]

1669.

[Secs. 1669, 1670 and 1671, relating to schools for negro and Indian children, were repealed by act of April 7, 1880; Amendments 1880, 47 (Ban. ed. 152); took effect immediately.]

1696. *General duties of teachers.*

Sec. 1696. Every teacher in the public schools must:

First—Before assuming charge of a school, file his certificate with the county superintendent.

Second—On taking charge of a school, or in closing a term of school, immediately notify the county superintendent of such fact.

Third—Enforce the course of study, the use of text-books, and the rules and regulations prescribed for schools.

Fourth—Hold pupils to a strict account for disorderly conduct on the way to and from school, on the play grounds, or during recess; suspend, for good cause, any pupil in the school, and report such suspension to the board of trustees, or city board of education, for review. If such action is not sustained by them, the teacher may appeal to the county superintendent, whose decision shall be final.

Fifth—Keep a State school register.

Sixth—Make an annual report to the county superintendent at the time and in the manner and on the blanks prescribed by the superintendent of public instruction. Any school teacher who shall end any school term before the close of the school year, shall make a report to the county superintendent immediately after the close of such term; and any teacher who may be teaching any school at the end of the school year shall, in his or her annual report, include all statistics for the entire school year, notwithstanding any previous report for a part of the year.

Seventh—Make such other reports as may be required by the superintendent of public instruction, county superintendent, or board of trustees, or city board of education. [*Amendment, approved April 7, 1880; Amendments 1880, 39 (Ban. ed. 143); took effect immediately.*]

1701. *No warrant to be drawn unless teacher has certificate.*

Sec. 1701. No requisition for a warrant must be drawn in favor of any teacher, unless such teacher is the holder of a proper certificate, in force for the full time for which the requisition is drawn, nor unless he was employed by the board of trustees, or city board of education, or by the county superintendent of schools, as provided in section one thousand five hundred and forty-five. [*Amendment, approved April 7, 1880; Amendments 1880, 39 (Ban. ed. 144); took effect immediately.*]

[The title of the amendatory act of April 7, 1880; Amendments 1880, 28 (Ban. ed. 131), purports to add a new section, to be known as 1703; but no such section is found in the body of the act.]

1704. *Teachers must be eighteen years of age.*

Sec. 1704. No person is eligible to teach in any public school in this State, or to receive a certificate to teach, who has not attained the age of eighteen years. [*New section, approved April 7, 1880; Amendments 1880, 40 (Ban. ed. 144); took effect immediately.*]

An Act to continue in force school teachers' certificates, State educational diplomas and life diplomas.

Approved February 5, 1880; 1880, 4 (Ban. ed. 4).

Certificates and diplomas continued in force.

SECTION 1. All teachers' city, city and county, county and State certificates,

State educational diplomas, life diplomas, and all other teachers' certificates and diplomas issued in the State of California, under and in pursuance of the laws thereof, on or before the thirty-first day of December, A. D. eighteen hundred and seventy-nine, shall be and the same are hereby continued in full force and effect, and shall be deemed valid for all purposes and to the full extent of time that the same were and were intended respectively to be under the said laws, on and before the said thirty-first day of December, A. D. eighteen hundred and seventy-nine.

SEC. 2. This act shall take effect from and after its passage.

An Act to continue in operation the public schools of this State.

Approved March 6, 1880; 1880, 7 (Ban. ed. 14).

Issuance of temporary certificate.

SECTION 1. The county superintendent of schools of each and every county in this State is hereby empowered to issue a temporary certificate to any teacher whose certificate has expired or shall expire between the first day of January, eighteen hundred and eighty, and the first day of June, eighteen hundred and eighty. The certificate so granted shall be of the same grade as the one in place of which it is issued, and shall be valid only until the first meeting of the board which shall be competent to issue teachers' certificates.

SEC. 2. This act shall take effect immediately.

1712. *Library fund, how expended.*

SEC. 1712. The boards of trustees and city boards of education must expend the library fund, together with such moneys as may be added thereto by donation, in the purchase of school apparatus and books for a school library; and no requisition for a warrant shall be drawn by the county superintendent upon the order of any board of trustees against the library fund of any district, unless such order is accompanied by an itemized bill, showing the books and apparatus, and the price of each, in payment for which the order is drawn. [Amendment, approved April 7, 1880; Amendments 1880, 40 (Ban. ed. 144); took effect immediately.]

1715. *Control and location of library.*

SEC. 1715. Libraries are under the control of the board of trustees or city board of education, and must be kept, when practicable, in the school-houses. [Amendment, approved April 7, 1880; Amendments 1880, 40 (Ban. ed. 144); took effect immediately.]

1741.

[SECS. 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1755 and 1758, relating to the State board of examination, were repealed by act of April 7, 1880; Amendments 1880, 47 (Ban. ed. 152); took effect immediately.]

1768. *County board, how composed.*

SEC. 1768. In each county having a population of less than one hundred thousand inhabitants, there shall be a county board of education, which shall consist of the county superintendent of schools and four members, of whom at least two shall always be experienced teachers, and holding first-grade certificates, in full force and effect, appointed by the board of supervisors, who shall hold their office for two years, until their successors are appointed and qualified; provided, that the first members of the county board of education shall, at their first meeting, and immediately after organizing, classify themselves by lot in such a manner that two of the appointed members shall go out

of office on the first day of July, eighteen hundred and eighty-one, and the other two appointed members on the first day of July, eighteen hundred and eighty-two. The board of supervisors of each county, at its first meeting after the passage of this act, shall appoint four members of the county board of education, who shall enter upon their duties immediately after appointment, and thereafter annually shall appoint two members, who shall hold their offices for two years from and after the first day of July next succeeding their appointment. A vacancy in the board of education may be filled at any time after its occurrence by the board of supervisors. For the transaction of business, three members shall constitute a quorum; but no certificate shall be issued or revoked, nor any text-books adopted, except by an affirmative vote of three members. On the call of any member, the "ayes" and "noes" shall be taken upon any proposition, and the vote recorded in the minutes. If the board of supervisors of any county shall refuse or neglect to appoint a board of education as herein provided, then the county superintendent shall appoint such board of education as hereinbefore provided, and the board so appointed shall have all the rights, exercise all the powers, and be governed by all the regulations prescribed for county boards, the same as if appointed by the board of supervisors. [*Amendment, approved April 7, 1880; Amendments 1880, 40 (Ban. ed. 144); took effect immediately.*]

1769. *Chairman.*

SEC. 1769. The superintendent of schools shall be ex officio secretary of the county board of education. The board shall elect one of their members president. [*Amendment, approved April 7, 1880; Amendments 1880, 41 (Ban. ed. 145); took effect immediately.*]

1770 *Meetings.*

SEC. 1770. The county board of education must meet and hold examinations for the granting of teachers' certificates semi-annually, at such times as the county board of education shall determine. All meetings of the board of education shall be public, and shall be held at the county seat, and the record of their proceedings shall be kept in the office of the superintendent of schools. The board of supervisors shall allow to the members of the board of education a reasonable compensation for their services, payable out of the same fund and in the same manner as the superintendent is paid. [*Amendment, approved April 7, 1880; Amendments 1880, 41 (Ban. ed. 145); took effect immediately.*]

1771. *Power of county boards of education.*

SEC. 1771. County boards of education have power:

First—To adopt rules and regulations, not inconsistent with the laws of this State, for their own government.

Second—To prescribe and enforce rules for the examination of teachers.

Third—To examine applicants, and to prescribe a standard of proficiency which will entitle the person examined to a certificate, and to grant certificates of two grades: (1) County certificates, first grade, valid for four years, and authorizing the holder to teach a grammar school; (2) County certificates, second grade, valid for two years, and authorizing the holder to teach a primary school.

Fourth—To prescribe and enforce the use of a uniform series of text-books in the public schools.

Fifth—To revoke, for immoral or unprofessional conduct, or evident unfitness for teaching, the certificates granted by them.

Sixth—To keep a record of its proceedings.

Seventh—To issue diplomas of graduation from any of the public schools of the county, which diplomas shall be designed by the superintendent of public instruction, and distributed as other blanks from his office.

Eighth—To adopt and use, in the authentication of its acts, an official seal.

Ninth—All examination papers shall be kept on file in the office of the superintendent for at least one year, and shall be open for the inspection of school officers. [*Amendment, approved April 7, 1880; Amendments 1880, 41 (Ban. ed. 145); took effect immediately.*]

1772. *Certificates, to whom to be issued.*

SEC. 1772. Except as provided in section seventeen hundred and seventy-five, certificates must be granted only to those who have passed a satisfactory examination in all the studies prescribed by the county board of education; provided, that applicants for second-grade county certificates shall be required to pass an examination only in arithmetic, grammar, geography, composition, history of the United States, orthography, defining, penmanship, reading, and method of teaching. All certificates must bear the seal, and be signed by the superintendent and a majority of the board of education by which they were granted [*Amendment, approved April 7, 1880; Amendments 1880, 41 (Ban. ed. 146); took effect immediately.*]

1774. *Standing to be indorsed on certificate.*

SEC. 1774. The standing of each applicant in each study, and in the class, must be indorsed on the back of each certificate issued upon examination, otherwise it is not a valid certificate. [*Amendment, approved April 7, 1880; Amendments 1880, 42 (Ban. ed. 146); took effect immediately.*]

1775. *Granting and renewal of certificates.*

SEC. 1775. The board may also, without examination, grant county certificates, and fix the grade thereof, to the holders of life diplomas, State educational diplomas, normal school diplomas, State university diplomas, and to the holders of such State and county certificates as were in full force and effect on the first day of January, eighteen hundred and eighty, and may, without examination, renew certificates previously issued by them, or previously granted in their county; such renewed certificates to remain valid for the same length of time for which the original certificates were granted. County boards of education must issue certificates upon the blank forms to be prepared and distributed by the superintendent of public instruction. [*Amendment, approved April 7, 1880; Amendments 1880, 42 (Ban. ed. 146); took effect immediately.*]

1777.

[Sec. 1777, relating to compensation of members of boards of examination, was repealed by act of April 7, 1880; Amendments 1880, 47 (Ban. ed. 152); took effect immediately.]

1787. *May be a board in each city.*

SEC. 1787. In every city, or city and county, having a board of education, there may be a board of examination. [*Amendment, approved April 7, 1880; Amendments 1880, 42 (Ban. ed. 147); took effect immediately.*]

1788. *How constituted.*

SEC. 1788. Each board of examination consists of the city superintendent of schools and four other members, at least two of whom shall be experienced teachers, resident in such city, elected by the board of education, and holding

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office for two years. [*Amendment, approved April 7, 1880; Amendments 1880, 42 (Ban. ed. 147); took effect immediately.*]

1790. Meetings.

SEC. 1790. The board must meet and hold examinations semi-annually, at such times as they may determine. The place of meeting shall be designated by the chairman. [*Amendment, approved April 7, 1880; Amendments 1880, 42 (Ban. ed. 147); took effect immediately.*]

1791. General powers of boards of education.

SEC. 1791. The board of education of any city, or city and county, having a board of education, has power:

First—In cities containing less than one hundred thousand inhabitants, to grant high-school certificates, valid for six years.

Second—In cities containing more than one hundred thousand inhabitants, to grant certificates entitling the holders to teach in such city, or city and county, in the schools of the grades for which such certificates are granted, and continuing in force for the same period as a county certificate of like grade.

Third—To exercise, within their respective jurisdictions, the powers granted by sections seventeen hundred and seventy-one and seventeen hundred and seventy-five of this Code to county boards of education. [*Amendment, approved April 7, 1880; Amendments 1880, 42 (Ban. ed. 147); took effect immediately.*]

1793.

[Sec. 1793, relating to eligibility to teach of holders of city certificates, was repealed by act of April 7, 1880; Amendments 1880, 47 (*Ban. ed. 152*); took effect immediately.]

1817. Estimate of county school funds.

SEC. 1817. The county superintendent of each county having a population of less than one hundred thousand inhabitants must, on or before the first regular meeting of the board of supervisors in September in each year, furnish the board of supervisors and the auditor, respectively, an estimate in writing of the minimum amount of county school fund needed for the ensuing year. This amount he must compute as follows:

First—He must ascertain, in the manner provided for in subdivisions one and two of sections eighteen hundred and fifty-eight, the total number of teachers for the county.

Second—He must calculate the amount required to be raised at five hundred dollars per teacher. From this amount he must deduct the total amount of State apportionments, less ten per cent. received by the county for the next preceding school year, and the remainder shall be the minimum amount of county school fund needed for the ensuing year; provided, that if this amount is less than sufficient to raise a sum equal to three dollars for each census child in the county, then the minimum amount shall be such a sum as will be equal to three dollars for each census child in the county. [*Amendment, approved April 7, 1880; Amendments 1880, 43 (Ban. ed. 147); took effect immediately.*]

1818. Levy of county tax.

SEC. 1818. The board of supervisors of each county having less than one hundred thousand inhabitants must, annually, at the time of levying other county taxes, levy a tax to be known as the county school tax, the maximum rate of which must not exceed fifty cents on each one hundred dollars of taxable property in the county, nor the minimum rate be less than sufficient to raise a minimum amount reported by the county superintendent, in accordance

with the provisions of the preceding section. The supervisors must determine the minimum rate of the county school tax as follows: they must deduct fifteen per cent. from the equalized value of the last general assessment roll, and the amount required to be raised, divided by the remainder of the assessment roll, is the rate to be levied; but if any fraction of a cent occur, it must be taken as a full cent on each one hundred dollars. [*Amendment, approved April 7, 1880; Amendments 1880, 43 (Ban. ed. 148); took effect immediately.*]

1830. Election to determine.

SEC. 1830. The board of trustees of any district may, when in their judgment it is advisable, call an election and submit to the electors of the district the question whether a tax shall be raised to furnish additional facilities for the district, or to maintain any school in such district, or for building one or more school-houses (or for liquidating any indebtedness previously incurred in building school-houses), or for any or all of these purposes. [*Amendment, approved April 7, 1880; Amendments 1880, 33 (Ban. ed. 148), took effect immediately.*]

1833. Judges of election, how appointed.

SEC. 1833. The trustees must appoint three judges to conduct the election, and it must be held in all respects, as nearly as practicable, in conformity with the general election law; provided, that no particular form of ballot shall be required, nor shall any informalities in conducting such election invalidate the same, if the election shall have been otherwise fairly conducted. [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 148), took effect immediately.*]

1834. Ballots, what to contain.

SEC. 1834. At such elections the ballots must contain the words "Tax—Yes;" or, "Tax—No." [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 148), took effect immediately.*]

1835. Returns.

SEC. 1835. If a majority of the votes cast are "Tax—Yes," the officers of the election must certify the fact to the board of trustees. [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 148); took effect immediately.*]

1836. Trustees to report to supervisors.

SEC. 1836. The trustees, upon a receipt of a certificate of such fact, must report the same to the board of supervisors, stating the amount of money to be raised. [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 148); took effect immediately.*]

1837. Supervisors to levy tax.

SEC. 1837. The board of supervisors must, at the time of levying the county taxes, levy a tax upon all the taxable property in the district voting such tax sufficient to raise the amount voted. The rate of taxation shall be ascertained by deducting fifteen per cent. from anticipated delinquencies from the aggregate assessed value of the property in the district, as it appears on the assessment roll of the county, and then dividing the sum voted by the remainder of such aggregate assessed value. The taxes so levied shall be computed and entered on the assessment roll by the county auditor, and collected at the same time and in the same manner as State and county taxes; and when collected, shall be paid into the county treasury for the use of the district in which the tax was voted. [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 149); took effect immediately.*]

1838.

[Secs. 1838, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, and 1852, relating to school taxes, and levy and collection thereof, were repealed by act or April 7, 1880; Amendments 1880, 48 (Ban. ed. 152); took effect immediately.]

1857. *No compensation allowed to certain officers for collecting, etc., school moneys.*

SEC. 1857. No assessor, tax collector, or county treasurer must charge or receive any fees or compensation whatever for assessing, collecting, receiving, keeping, or disbursing any school moneys, but the whole moneys collected must be paid to the county treasurer. [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 149); took effect immediately.*]

1858. *Apportionment of State school moneys.*

SEC. 1858. All State school moneys apportioned by the superintendent of public instruction must be apportioned to the several counties in proportion to the number of school census children between five and seventeen years of age, as shown by the returns of the school census marshals of the preceding school year; provided, that Indian children who are not living under the guardianship of white persons, and Mongolian children shall not be included in the apportionment list. The school superintendent of each county must apportion all State and county school moneys as follows:

First—He must ascertain the number of teachers each district is entitled to, by calculating one teacher for every eighty census children, or fraction thereof not less than fifteen census children, as shown by the next preceding school census.

Second—He must ascertain the total number of teachers for the county, by adding together the number of teachers assigned to the several districts.

Third—Five hundred dollars shall be apportioned to each district for every teacher assigned it; provided, that to districts having ten and less than fifteen census children shall be apportioned four hundred dollars.

Fourth—All school moneys remaining on hand, after apportioning five hundred dollars to each district having fifteen census children or more for every teacher assigned it, and, after apportioning four hundred dollars to districts having less than fifteen census children, must be apportioned to the several districts having not less than thirty census children, in proportion to the number of census children in each district. [*Amendment, approved April 7, 1880; Amendments 1880, 44 (Ban. ed. 149); took effect immediately.*]

1859. *No apportionment without school kept—Exceptions.*

SEC. 1859. No school district is entitled to receive any apportionment of State or county school moneys which has not maintained a public school for at least six months during the then next preceding school year; but any new district, formed by the division of an old one, is entitled to its apportionment when school has been maintained in the old district before division, and in the new district after division, at least eight months in all. A district which is prevented by fire, flood, or prevailing epidemic from maintaining a school for the length of time designated in this section, is nevertheless entitled to its apportionment of State and county school moneys. [*Amendment, approved April 7, 1880; Amendments 1880, 45 (Ban. ed. 150); took effect immediately.*]

1861. *State school fund, how used.*

SEC. 1861. The State school fund, excepting as otherwise provided in this chapter, must be used for no other purpose than the payment of teachers of

primary and grammar schools. [*Amendment, approved April 7, 1880; Amendments 1880, 45 (Ban. ed. 150); took effect immediately.*]

1869. *Issuance of certificate or diploma otherwise than as provided, a misdemeanor.*

SEC. 1869. Any State, county, or city, or city and county superintendent, or any State, county, or city, or city and county board of education, who shall issue a certificate or diploma, except as provided for in this title, shall be guilty of a misdemeanor. [*Amendment, approved April 7, 1880; Amendments 1880, 45 (Ban. ed. 150); took effect immediately.*]

1871. *Evidence of character.*

SEC. 1871. Certificates shall be issued to such persons only as shall have given evidence of good moral character. [*Amendment, approved April 7, 1880; Amendments 1880, 46 (Ban. ed. 150); took effect immediately.*]

1872.

[Sec. 1872, relating to appeals from orders revoking certificates or diplomas, was repealed by act of April 7, 1880; Amendments 1880, 48 (Ban. ed. 152); took effect immediately.]

1874. *Books adopted to continue in force four years.*

SEC. 1874. In the adoption of text-books, all county, city, and city and county boards of education shall be governed by the following rules:

First—Any books hereafter adopted as part of a uniform series of text-books must be continued in use for not less than four years.

Second—No change of text-books must be made at any other time than in the months of May or June of the year in which the change is made, and no changes shall be made to take effect until the beginning of the school term commencing after the thirtieth day of June of that year.

Third—At least sixty days' notice of any proposed change in text-books must be given by publication in a newspaper of general circulation published in the county, if there be one, in which such change is to be made. If there be no newspaper published in the county, then such publication shall be made in any newspaper having a general circulation in the county. A copy of the newspaper containing such publication, with such notice marked, must immediately after the first publication thereof be by the secretary of the board transmitted to the State board of education, and the same, when received, must be filed by the secretary of said State board. Said notice shall state what text-books it is proposed to change; that sealed bids or proposals will be received by the board for furnishing books to replace them; the place where and the day and the hour when all bids or proposals will be opened, and that the board reserves the right to reject any and all bids or proposals. Said notice shall be published in such newspaper as often as the same shall be issued after the first publication thereof; provided, that in the year eighteen hundred and eighty only fifteen days' notice need be given.

Fourth—At the time and place specified in said notice the board shall meet and publicly open and read all of the bids or proposals which have been received by them, and shall make their award thereon within ten days thereafter.

Fifth—Said bids or proposals must be accompanied by sample copies of the books proposed to be furnished, together with a statement of the wholesale and retail price at which the publisher agrees to furnish each book within the county or at San Francisco; during the full time for which said books are to be adopted.

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Sixth—If no satisfactory bids or proposals are received, then the books already in use may continue in use until changed, as herein provided.

Seventh—The publisher or publishers whose proposals shall be accepted, must enter into a written contract with the board of education making the award, and shall give a good and sufficient bond in a reasonable sum, to be fixed by the board of education, for the faithful performance thereof. Publishers of books already in use may bid under the provisions of this section as well as others, and such bids, if satisfactory, may be accepted by the board. [*Amendment, approved April 7, 1880; Amendments 1880, 46 (Ban. ed. 150); took effect immediately.*]

[An Act to prevent changes in the text books in use in the public schools, approved December 13, 1875, 1875-6, 1, was repealed by act of April 12, 1880; 1880, 42 (Ban. ed. 204); took effect immediately.]

1879. *Bribing members of board of education.*

SEC. 1879. The offering of any valuable thing to any member of a board of education, with the intent thereby to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, superintendent, or other officer or employé, the adoption of any text-book, or the making of any contract to which the board of education of which he is a member shall be a party, or the acceptance by any member of a board of education of any valuable thing, with corrupt intent, shall be a felony, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the penitentiary not exceeding one year, or by both such fine and imprisonment; and the person so convicted shall be forever disqualified from holding any office of trust or profit in this State. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with any offense described in this section, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony. Any contract or appointment obtained from a board of education by corrupt means shall be void. Any county board of supervisors, or any city council, or any duly authorized committee thereof, may investigate the conduct of any member of a county, or city, or city and county board of education, or school officer, or employé, who may be charged with malfeasance in office, and in such capacity shall be entitled to the process of the courts to compel the attendance of witnesses, and the officer who shall preside at such investigation shall have power to administer all necessary oaths. [*New section, approved April 7, 1880; Amendments 1880, 47 (Ban. ed. 151); took effect immediately.*]

An Act to protect the school districts of this State from injury during the year eighteen hundred and eighty, by the operation of section twelve of article thirteen of the constitution.

Approved April 16, 1880; 1880, 75 (Ban. ed. 261).

School districts not to forfeit apportionment of school funds, prior to June 30, 1880.

SECTION 1. No school district shall forfeit or be deprived of its apportionment of State and county school funds, which shall fail to maintain a six months school during the year ending June thirtieth, eighteen hundred and eighty, by reason of the change requiring the moneys to be derived from poll taxes to be paid into the State school fund, instead of, as heretofore, into the county school fund, section one thousand eight hundred and fifty-nine of the Political Code to the contrary notwithstanding.

Teachers' salaries to be paid for services rendered prior to June 30, 1880.

Sec. 2. District trustees, superintendents of schools, and county auditors are hereby granted power to draw their orders, requisitions, or warrants against the August apportionment of school moneys for the year eighteen hundred and eighty, in payment for the salaries of teachers for services rendered prior to June thirteenth [thirtieth], and in the year eighteen hundred and eighty; and it is also made the duty of the county treasurers of the several counties of this State to honor and pay such warrants as other warrants drawn upon the school fund are paid, section one thousand six hundred and twenty-one of the Political Code to the contrary notwithstanding.

Auditors to certify to warrants.

Sec. 3. It is hereby made the duty of the county auditors of the several counties of this State, on or before the first regular meeting of their respective boards of supervisors in September, eighteen hundred and eighty, to certify to said board the total amount of the warrants issued by him, in accordance with section two of this act, and the amount so certified shall by said boards of supervisors be added to the other amounts which shall be found necessary to be raised for county school purposes, and when so added, shall be levied, assessed, collected, and paid into the county treasury to the credit of the county school fund, as other school taxes are levied, assessed, collected, and paid, and shall thereafter be used and expended as other county school funds are used and expended.

Sec. 4. This act shall take effect from and after its passage.

STATE MILITIA.

1912. *National guard; of what it consists.*

Sec. 1912. The organized uniformed militia of the State of California are known as the national guard of California. This force shall not exceed forty companies, and must be located throughout the State with reference to the military wants thereof, means of concentration, and other military requirements. [*Amendment, approved March 12, 1878; Amendments 1877-8, 31; took effect immediately.*]

1913. *Board of location and organization.*

Sec. 1913. The commander-in-chief, major-general, adjutant-general, and the brigadier-general of each brigade, constitute a board for location and organization of the national guard within such brigade, with power to transfer, attach, consolidate, or disband companies, and to reorganize, at pleasure, regiments and battalions. [*Amendment, approved March 30, 1878; Amendments 1877-8, 45; took effect from passage.*]

1917. *Staff of commander-in-chief.*

Sec. 1917. His staff consists of one adjutant-general, with the rank of major-general; one chief-engineer, one paymaster-general, one judge advocate-general, one inspector-general of rifle practice, one surgeon-general, each with the rank of colonel, and eight aids-de-camp, with the rank of lieutenant-colonel, appointed by and holding office at the pleasure of the commander-in-chief, or until their successors are appointed and qualified. [*Amendment, approved April 15, 1880; Amendments 1880, 55 (Ban. ed. 220); took effect from passage.*]

1918. *Appointment and term of office of generals.*

Sec. 1918. The commander-in-chief, by and with the advice and consent of the senate, must appoint one major-general, and for each brigade of the national

guard of California one brigadier-general, who must be citizens of the United States and of the State, and the brigadier-generals must be residents of localities within the brigades for which they are appointed. They hold their offices until their successors are appointed and qualified. [*Amendment, approved March 12, 1878; Amendments 1877-8, 31; took effect immediately.*]

1921. Oath of officers and members.

Sec. 1921. All officers and soldiers of the national guard, on becoming members, and before performing duty, and at each subsequent re-enlistment, must take and subscribe the following oath, which all commissioned officers thereof are authorized to administer: I do solemnly swear that I will support the constitution of the United States and the constitution of the State of California, and will maintain and defend the laws and all officers employed in administering the same. Which oath, certified by the officer administering the same, must be returned to the adjutant-general, and be preserved with the rolls of companies. Oaths of re-enlistment shall show on the margin the number of re-enlistment. [*Amendment, approved March 30, 1878; Amendments 1877-8, 41; took effect from passage.*]

1922. System of instruction.

Sec. 1922. The systems of instruction prescribed for the different arms of the United States army must be followed in the military drills and instruction by the national guard, and by the enrolled militia when called into active service. [*Amendment, approved March 12, 1878; Amendments 1877-8, 32; took effect immediately.*]

1925. Officers re-elected not to be recommissioned.

Sec. 1925. When an officer is re-elected no new commission issues, but a certificate of such election must be issued to him by the adjutant-general. In the event of a commission being lost or destroyed, on satisfactory proof being given of the same, the commander-in-chief shall issue a new commission, with rank from date of former commission. [*Amendment, approved March 12, 1878; Amendments 1877-8, 32; took effect immediately.*]

1926. Resignations, how made.

Sec. 1926. Any officer resigning his commission must do so in writing, addressing the adjutant-general, giving his reasons therefor, and transmit the same through his immediate commanding officer, who will make his indorsement thereon, and the resignation takes effect when accepted by the commander-in-chief and announced in orders. [*Amendment, approved March 12, 1878; Amendments 1877-8, 32; took effect immediately.*]

1927. Vacancies in elective offices, how filled.

Sec. 1927. Vacancies in elective offices of the national guard, not in active service, are filled by election. When vacancies occur at an election through the promotion of any officer, such vacancies may then and there be filled without further order. Election of company officers shall be presided over by an officer appointed for that purpose by the brigade commander, and such presiding officer shall give ten days' notice of his appointment to all parties interested, by causing the order appointing him to be posted in the company armory and read to the company. He shall, within five days following the election, report the result of the said election to the brigade commander. [*Amendment, approved March 12, 1878; Amendments 1877-8, 32; took effect immediately.*]

1928. Absence or removal, when deemed resignation.

Sec. 1928. Any commissioned officer who removes from the limits of his

brigade is deemed to have resigned, and the major-general, brigadier-general, or any commissioned officer who absents himself from the State for more than thirty days, without the permission of the commander-in-chief, is deemed to have resigned, and such resignation shall be announced in orders from the adjutant-general's office, immediately after the fact of such absence becomes officially known. [*Amendment, approved March 12, 1878; Amendments 1877-8, 32; took effect immediately.*]

1930. Disobedience of orders, unsoldierlike conduct—Penalty.

Sec. 1930. Any officer, non-commissioned officer, musician, or private who disobeys the orders of his superior, uses reproachful or abusive language to his superior, or misbehaves or demeans himself in an unofficer or unsoldierlike manner whilst under military orders, must be immediately arrested. If a non-commissioned officer or soldier on military duty, he must be disarmed and put under guard, and tried and punished by a court-martial, according to law and military usage. [*Amendment, approved March 12, 1878; Amendments 1877-8, 32; took effect immediately.*]

1932. Expulsion for disgraceful cause bar to re-entry.

Sec. 1932. No dishonorably discharged non-commissioned officer, artificer, musician, or private, or member of a company discharged from the national guard for any disgraceful cause, must be permitted to again enter any company of the national guard except the offense is pardoned by the commander-in-chief. [*Amendment, approved March 12, 1878; Amendments 1877-8, 33; took effect immediately.*]

1934. By-laws.

Sec. 1934. Regimental, battalion, and company rules of government and by-laws regularly adopted by a majority of the elected officers of such regiments and battalions, or members of companies, and approved by the commander-in-chief, may be adopted and enforced in such regiments, battalions, and companies, if they are not in conflict with the laws and regulations of this State. [*Amendment, approved April 15, 1880; Amendments 1880, 50 (Ban. ed. 215); took effect from passage.*]

1936. Exemption from poll tax.

Sec. 1936. All officers, musicians, and privates of the national guard who comply with all military duties as provided in this chapter, are entitled to the following privileges and exemptions, viz.: Exemption from payment of poll tax, road tax, and head tax of every description, exemption from jury duty, and from service on any posse comitatus. All officers, non-commissioned officers, musicians, and privates who have faithfully served in the military service of this State for the space of seven consecutive years, and receive the certificate of the adjutant-general certifying the same, are thereafter exempted from further military and jury duty, except in time of war, and the adjutant-general must issue such certificate of exemption when it appears that the party applying is entitled to the same. [*Amendment, approved March 12, 1878; Amendments 1877-8, 33; took effect immediately.*]

1937. List of persons exempted to be given to assessor.

Sec. 1937. Each commander of a company of the national guard must make out a list, certified under oath before a notary public, on or before the first Monday in March of each year, of every officer, non-commissioned officer, musician, and private of the company entitled to exemptions, as provided by law, with the residence of each, which list must be transmitted to the colonel,

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or commanding officer, of the regiment or battalion to which such company belongs, who must transmit the same, together with a list of his field and staff, and non-commissioned staff, made out in like manner, and certified by him under oath before a notary public, to the brigadier-general, which list, if correct and approved by the brigadier-general, must, by him, be served upon the county assessor of the county in which such regiments, battalion, or companies are located; and the county assessor must thereupon note opposite the names of all persons such exemptions. [*Amendment, approved March 30, 1878; Amendments 1877-8, 43; took effect from passage.*]

1938. Commander-in-chief may disband, etc.

SEC. 1938. The commander-in-chief may, at any time, for good and sufficient cause, disband any portion of the national guard. [*Amendment, approved March 12, 1878; Amendments 1877-8, 33; took effect immediately.*]

1939. Rules and regulations of United States army, how far applicable.

SEC. 1939. The rules and regulations of the army of the United States, so far as the same may be applicable and not inconsistent with the laws of this State, and the rules and regulations prescribed by the commander-in-chief, constitute the rules and regulations for the government of the national guard. [*Amendment, approved April 15, 1880; Amendments 1880, 51 (Ban. ed. 215); took effect from passage.*]

1941. Rules and regulations prescribed by commander-in-chief.

SEC. 1941. The commander-in-chief is authorized and has power to establish and prescribe such rules, regulations, forms, and precedents as he may deem proper for the use, government, and instruction of the national guard, and to carry into full effect the provisions of the Codes relative thereto. Such rules, regulations, forms, and precedents shall, from time to time, be revised as may be deemed necessary, and shall be promulgated in orders, and compiled in such form as may be deemed advisable for the information of the national guard. [*Amendment, approved April 15, 1880; Amendments 1880, 51 (Ban. ed. 215); took effect from passage.*]

1942. What colors to carry.

SEC. 1942. The colors carried by organizations of the national guard shall be such as are borne by similar organizations in the United States army; and no military organization provided for by the constitution and laws of the State, and receiving State support, shall, while under arms, either for ceremony or duty, carry any device, banner, or flag of any State or nation, except that of the United States, or the State of California. [*Amendment, approved April 15, 1880; Amendments 1880, 55 (Ban. ed. 220); took effect from passage.*]

1943. Pension.

SEC. 1943. Every officer or soldier wounded or disabled in the service of the State shall have reasonable expenses paid him, and the widow and children of every officer or soldier killed in the service of the State shall be suitably provided for by the legislature. [*New Section, approved March 12, 1878; Amendments 1877-8, 41; took effect immediately.*]

1944. Forfeiture of claims.

SEC. 1944. All claims against any appropriation made for military purposes payable to commanding officers, shall, at the discretion of the board of military auditors, be forfeited to the State unless the demand is presented within six months after the time it becomes due. [*New Section, approved March 12, 1878; Amendments 1877-8, 41; took effect immediately.*]

1955. Company to be listed and officers commissioned.

SEC. 1955. 1. If such company has been organized and the officers elected in accordance with the provisions of law, orders, and regulations, the company must be listed in the office of the adjutant-general as a company of the national guard, and the officers elected, if commissioned, hold office for the term of two years.

2. All commissioned officers of the national guard shall be commissioned by the governor, but he may refuse to issue a commission to any officer elected or appointed, if, in his opinion, the person elected or appointed is in any way unqualified or unworthy to be an officer in the national guard. [*Amendment, approved April 15, 1880; Amendments 1880, 51 (Ban. ed. 215); took effect from passage.*]

[The secretary of State shall make no charge for issuing a military commission. See section 26 of act approved April 15, 1880; Amendments 1880, 57 (Ban. ed. 222); took effect from passage.]

1960. Not to be a member of two companies at the same time.

SEC. 1960. No person can be a member of two companies at the same time; and any member of a company who removes beyond the limits of the county may be discharged from such company; and such discharge, as in all other cases, must be announced in orders from proper authority, and copies of all orders announcing discharges must be forwarded to brigade and general headquarters. [*Amendment, approved April 15, 1880; Amendments 1880, 51 (Ban. ed. 216); took effect from passage.*]

1962. Number of officers and privates.

SEC. 1962. The companies in the national guard are composed of the following officers and privates, viz.:

1. Each company of cavalry, of one captain, one first lieutenant, one senior and one junior second lieutenant, one first sergeant, one quartermaster sergeant, four sergeants, eight corporals, two trumpeters, one farrier, and not less than forty nor more than one hundred privates.

2. Each company of infantry of one captain, one first lieutenant, and one second lieutenant, one first sergeant, three sergeants, eight corporals, one marker, two drummers, one fifer, and not less than forty nor more than one hundred and twenty privates.

3. Light batteries, of one captain, two first lieutenants, two second lieutenants, one first sergeant, one quartermaster sergeant, six sergeants, twelve corporals, two musicians, one wagoner, and not less than forty nor more than one hundred privates.

4. A galling battery of four guns attached to a company of infantry will entitle that company to a junior first lieutenant and a junior second lieutenant, two sergeants, and four corporals, in addition to those already provided in paragraph two. [*Amendment, approved April 15, 1880; Amendments 1880, 56 (Ban. ed. 221); took effect from passage.*]

1965. Bond to secure State against loss of property or company funds, etc.

SEC. 1965. Thereupon such officer must give such bonds and security as may be required by the adjutant-general to secure the State and the company from loss on account of use or misapplication of any State property, or company funds and property. Said bond must be with two or more good and sufficient sureties, conditioned upon his faithful performance of all duties, and accounting for all property and moneys, both State and company funds, of which the company commander, as ex officio treasurer, shall be the custodian. [*Amend-*

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ment, approved April 15, 1880; Amendments 1880, 57 (Ban. ed. 221); took effect from passage.

1968. *Inspection of arms.*

Sec. 1968. All arms, equipments, and military stores, books, accounts, and records of all kinds, are subject to examination by the inspectors and ordnance officers of the State, and of any other officer designated by the commander-in-chief or other commanding officer for that purpose. [*Amendment, approved March 12, 1878; Amendments 1877-8, 34; took effect immediately.*]

1969. *Repair of arms, etc.*

Sec. 1969. If such officer finds any of such property out of repair, injured, or defective, he must immediately notify the facts to the commander-in-chief, through the proper channel, who, if the damages is not repaired and the defects and losses supplied within a reasonable time, must order the same to be done under the direction of some officer, and the vouchers for the expenses thereof, when audited by the State board of military auditors, must be paid, on the warrant of the controller, out of the appropriation for military purposes. [*Amendment, approved March 30, 1878; Amendments 1877-8, 43; took effect from passage.*]

1970. *Annual inspection and muster—Muster rolls.*

Sec. 1970. There must be an annual inspection and muster of all the troops of the national guard in the month of July, each year, by brigade, regiment, battalion, or company, as may be deemed advisable by the brigade commander; and the commanding officer of each company must make out and certify triuplicate muster rolls, showing the names and number of the members of the company, the officers in the order of their rank, and the privates in alphabetical order; and he must also attach to each roll a list of the ordnance, ordnance stores, accouterments, clothing, and other property of the State in possession of the company; a statement in which all moneys received from the State for the previous year have been expended, together with such other information as the adjutant-general or brigade commander may require. He must transmit, through the proper military channels, one copy of the roll and list attached to the major-general, one copy to the brigadier-general of his brigade, and one copy to the adjutant-general. [*Amendment, approved April 15, 1880; Amendments 1880, 50 (Ban. ed. 220); took effect from passage.*]

1973. *Retired list.*

Sec. 1973. 1. Any commissioned officer who has become disabled, and incapable of longer performing the active duties of his office, may, upon his own application, be placed upon the retired list.

2. If an officer for either of the above reasons desires to be placed upon the retired list, he shall make application to his brigade commander to appoint a board of surgeons, who shall examine him as to his disability, and if such disability has not been incurred by reason of any dereliction, they shall, if they deem proper, recommend that his application be granted; and upon the approval of such application by the brigade commander and commander-in-chief, the adjutant-general shall issue orders retiring such officer.

3. Any commissioned officer who shall have served as such in the national guard of this State for the continuous period of eight years, may, upon his own application, be placed upon the retired list, and withdrawn from active service and command, with the rank held by him at the time such application is made. Upon being officially notified by the brigade commander, attested by the ad-

adjutant-general of the State, the commander-in-chief shall cause orders to be issued retiring the officer who makes application therefor, in accordance with the provisions of this section.

4. The officers on the retired list shall only be subject to detail for duty by orders from the commander-in-chief; and he shall cause to be issued such orders as he may deem necessary, detailing them for duty upon boards of officers for military purposes, courts-martial, and courts of inquiry, and for such other military duties as in his judgment may be advisable; and for this purpose a roster of all officers on the retired list shall be kept in the adjutant-general's office.

5. Officers on the retired list shall, on all occasions of duty, and on all occasions of ceremony, take rank next to officers of like rank upon the active list. [*Amendment, approved April 15, 1880; Amendments 1880, 51 (Ban. ed. 216); took effect from passage.*]

1974. *Examining board and examinations of officers.*

SEC. 1974. 1. Every elected officer of the national guard must, upon his election to any office in the national guard, appear before an examining board for examination as to his qualifications for the office to which he has been elected.

2. Such board of officers shall consist of three commissioned officers for each brigade, to be designated by the commander-in-chief, and who may be removed at his pleasure.

3. The officer duly appointed to preside at any election shall, immediately after declaring the result of such election, notify the officer or officers elected that they must appear before the examining board for examination, when notified by that board.

4. If the officer elected and duly notified does not appear before the said examining board when summoned by them, he shall be deemed to have declined his commission, and there shall be another election ordered by the brigade commander. The filing of a proper certificate of said board with the brigade commander that the officer has failed to pass an examination, or declined to appear before the board when notified, shall be deemed sufficient for ordering a new election. [*Amendment, approved April 15, 1880; Amendments 1880, 52 (Ban. ed. 217); took effect from passage.*]

1975. *Examination of candidates for commissions.*

SEC. 1975. The board shall thoroughly examine the candidate for commission as to his military and general qualifications; and if, in the opinion of the majority of the board, he is duly qualified, the fact shall be duly certified to the commander-in-chief. The board shall examine the candidate for a commission as to his knowledge in the following:

1. The prescribed tactics.
2. The rules and regulations governing the United States army and the national guard of California.
3. The revised articles of war.
4. The revisions of the Codes of California relative to the national guard.
5. Forms of military orders, correspondence, records, and also as to general qualifications. [*Amendment, approved April 15, 1880; Amendments 1880, 53 (Ban. ed. 217); took effect from passage.*]

[New Sec. 1975. The act of April 15, 1880; Amendments 1880, 53 (Ban. ed. 217), from which the foregoing amendment is taken, purports to repeal a new section, 1975, approved March 30, 1878. As a matter of fact, however, there

1975-1985 AMENDMENTS TO THE POLITICAL CODE.

was no new section 1975 approved on March 30, 1878. There were two separate new sections 1975, approved in 1878, one on March 12, 1878; Amendments 1877-8, 35, and one on April 1, 1878; Amendments 1877-8, 44. It is presumed that the foregoing amendment of April 15, 1880, is now the only section 1975 in force.]

1976. *Applications for membership.*

SEC. 1976. Applications or propositions for membership in any company of the national guard shall only be made at a regular weekly meeting or assemblage of such company, and the names of such applicants shall be posted in a conspicuous place in the company quarters, or armory, until the next succeeding regular weekly meeting or assemblage of such company, at which time, and not before, such applicants may be balloted for by the company. [*New Section, approved April 1, 1878; Amendments 1877-8, 44; took effect sixtieth day after passage.*]

1977. *Duties of soldiers and officers as to uniforms, property, and parades.*

SEC. 1977. 1. No soldier shall wear or use, except when on military duty, or by special permission of his commanding officer, any uniform or other article of military property belonging to the State, or to the company of which he is a member.

2. No officer in charge of public property for military use shall transfer any portion thereof, either as a loan or permanently, without the authority of the next superior commander.

3. Although an officer who has receipted for public property is personally and officially accountable therefor, yet all commanding officers are also responsible that the best arrangements are made for the security and safety of all public property within their commands, and for the strict observance of the regulations in regard to its care, removal, use, or issue. It is, therefore, their duty to see that none but faithful and reliable persons are employed for its care, or allowed control over or access to it.

4. No parade or voluntary service shall be performed by any regiment, battalion, or company, under arms, or in uniform, without the approval of the next superior authority. [*New Section, approved April 15, 1880; Amendments 1880, 53 (Ban. ed. 217); took effect from passage.*]

1982. *Regiments and battalions.*

SEC. 1982. A regiment of the national guard consists of not less than six nor more than ten companies. Any less number of companies than six constitute a battalion. [*Amendment, approved April 15, 1880; Amendments 1880, 53 (Ban. ed. 217); took effect from passage.*]

1984. *Field officers, number and designation.*

SEC. 1984. The field officers of a regiment are one colonel, one lieutenant-colonel, and one major. A cavalry regiment may have two majors. The field officers of a battalion, when composed of less than six companies and more than three, are one lieutenant-colonel and one major. When composed of two or three companies, then one major only. [*Amendment, approved March 12, 1878; Amendments 1877-8, 35; took effect immediately.*]

1985. *Mode of election.*

SEC. 1985. Such officers are elected by the commissioned officers of the different companies comprising the regiment or battalion, and if the regiment or battalion is already formed, by all the commissioned officers thereof, excepting staff officers, and hold office for the term of four years. Upon application of the officers entitled to elect, the general of brigade to which such regiment or

battalion is attached, or to be attached, must appoint a suitable person to preside at the election, who must give notice of his appointment, of the time and place of holding the election, and of the office to be filled, which notice must be published at least ten days in some newspaper published within the limits of the brigade, or, if no paper is published within such limits, by posting notices in at least three conspicuous places. The brigade commander may order an election for field or line officers, if application is not made for an order for election within two months after the vacancy occurs, or after the expiration of the term for which the officer was last elected. [*Amendment, approved March 12, 1878; Amendments 1877-8, 35; took effect immediately.*]

1986. Returns of election.

SEC. 1986. Such presiding officer must make return of the election held, through the proper military channels, for approval to the adjutant-general, who, upon finding the same in accordance with the provisions of law, orders, and regulations, must notify the commander-in-chief thereof for his consideration, who, if he approve, shall issue the commission. In all elections for commissioned officers, a majority of the votes of those present shall be necessary to a choice. [*Amendment, approved April 15, 1880; Amendments 1880, 53 (Ban. ed. 218); took effect from passage.*]

1990. Staff of colonel, lieutenant-colonel, and major.

SEC. 1990. The staff of a colonel of a regiment, and of a lieutenant-colonel, or major commanding a battalion, consists of one adjutant, one quartermaster, one commissary, one paymaster, one ordnance officer, one inspector of rifle practice, each with the rank of first lieutenant; one surgeon, with the rank of major; one chaplain, with rank of captain; and one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, one ordnance sergeant, one hospital steward, one drum-major, two principal musicians, four regimental markers, two general guides, two sergeants and standard bearers, and six color corporals, to be appointed by such commanding officer, and holding office at his pleasure, and until their successors are appointed and qualified. [*Amendment, approved April 15, 1880; Amendments 1880, 54 (Ban. ed. 218); took effect from passage.*]

1991.

[Sec. 1991, relating to chaplains, was repealed by act approved April 15, 1880; Amendments 1880, 55 (Ban. ed. 220); took effect from passage.]

1992. Drum and trumpet corps.

SEC. 1992. Commanders of regiments and battalions may concentrate the music of their different commands and organize the same under a drum-major or chief trumpeter, as a drum or trumpet corps. [*Amendment, approved April 15, 1880; Amendments 1880, 56 (Ban. ed. 221); took effect from passage.*]

2006. Staff of major-general.

SEC. 2006. The staff of the major-general consists of one assistant adjutant-general, who shall be chief of staff, one engineer officer, one ordnance officer, one quartermaster, one commissary, one inspector of rifle practice, one paymaster, one division inspector, one judge advocate, and one surgeon, with the rank of lieutenant-colonel, two aids-de-camp, with the rank of major, and four staff orderlies, with the rank of sergeant-major, who are appointed by and hold office at the pleasure of the major-general, or until their successors are appointed and qualified. [*Amendment, approved March 12, 1878; Amendments 1877-8, 36; took effect immediately.*]

2007. Staff of brigadier-general.

Sec. 2007. The staff of each general of brigade consists of one assistant adjutant-general, who shall be chief of staff, one engineer officer, one ordnance officer, one quartermaster, one commissary, one paymaster, one brigade inspector, one judge advocate, one inspector of rifle practice, and one surgeon, with the rank of major, one aid-de-camp, with the rank of captain, and two staff orderlies, with the rank of sergeant-major, who are appointed by the brigadier-general and hold office at his pleasure, or until their successors are appointed and qualified. [*Amendment, approved March 12, 1878; Amendments 1877-8, 36; took effect immediately.*]

2018. Parades; time of.

Sec. 2018. The national guard of California must parade at least three times in each year.

First—On the fourth day of July.

Second—On the ninth day of September.

Third—In the month of May, for target practice, under the supervision of the inspectors of rifle practice.

Fourth—These parades must be made by the brigade, regiment, battalion, or company, as may be deemed most advisable by the commander-in-chief, who shall issue orders to the national guard to carry out the provisions of this section. [*Amendment, approved March 12, 1878; Amendments 1877-8, 36; took effect immediately.*]

2021. Exemption from arrest.

Sec. 2021. No person belonging to the military forces is subject to arrest, on civil process, while going to, remaining at, or returning from any place at which he may be required to attend for military duty. [*Amendment, approved March 12, 1878; Amendments 1877-8, 36; took effect immediately.*]

2022. Drills—Appropriation—Cadets.

Sec. 2022. Commanders of regiments and battalions must assemble their commands for battalion drills at least once in each year, exclusive of the legal brigade, regimental, or battalion parade. Every such command, of not less than six companies, that annually assembles and encamps for discipline and drill for not less than eight days, shall receive from the State, to defray the expenses of such encampment, the sum of two thousand dollars. If the companies of such command are not located at the same place, then each company shall, in addition to the above allowance, receive the sum of two dollars and fifty cents for every mile necessarily traveled to and from the place of assembly. Said sums shall be audited, allowed, and paid as other allowances to the national guard are allowed and paid. Each colonel commanding a regiment may muster into and attach to it a company of cadets, and may prescribe the ages and term of enlistment and the discipline thereof. Each member of such company must, between the age of eighteen and twenty-one, join some company of the national guard, and serve therein not less than one term of enlistment. It shall be the duty of the colonel to give his personal attention to the instruction of such cadet company, and he must, by rule, prohibit the use of intoxicating drinks by any member of such company during the term of membership, and must punish a second violation of such rule, by any one person, by a dishonorable dismissal from the service. Every such company shall be trained in the arm of the service to which the regiment is attached, and shall receive from the State a monthly and annual allowance equal to one-third of the allowance

made to a company of such regiment. [*Amendment, approved April 15, 1880; Amendments 1880, 54 (Ban. ed. 218); took effect from passage.*]

2027. Company drills at certain cities.

SEC. 2027. The companies located in the City and County of San Francisco, and in Sacramento, Oakland, Vallejo, San José, and Los Angeles, must assemble once a week for drill. [*Amendment, approved March 12, 1878; Amendments 1877-8, 41; took effect immediately.*]

2028. Penalty for absence from company drills.

SEC. 2028. All officers or members who absent themselves from three consecutive assemblages without an excuse acceptable to the commanding officer; are debarred from the privileges and exemptions provided for members of the national guard; and if a non-commissioned officer or private is reported to the commanding officer of the regiment or battalion as having so absented himself, he may, with the approval of the regimental or battalion commander and the commander-in-chief, upon the recommendation of the commanding officer of the company to which he belongs, be dishonorably discharged the service. [*Amendment, approved March 12, 1878; Amendments 1877-8, 36; took effect immediately.*]

2029. Book to be kept showing who was present at drills.

SEC. 2029. Commanders of companies must keep a book, in which must be entered the names and number of officers, non-commissioned officers, and privates, respectively, present at each drill, and must therefrom make monthly returns to the commanding officer of the regiment or battalion, and if unattached, to the brigade commander, the excuses of absentees recorded, and marked approved or otherwise. These books must be carefully preserved, and when filled forwarded to the adjutant-general's office. [*Amendment, approved March 12, 1878; Amendments 1877-8, 37; took effect immediately.*]

An Act to define the duties of inspectors of rifle practice of the national guard of California.

Approved March 30, 1878; 1877-8, 758.

General inspector of rifle practice—Duties.

SECTION 1. It shall be the duty of the general inspector of rifle practice to exercise general supervision over the rifle practice of the national guard; to inspect, or cause to be inspected, from time to time, all ranges and practice grounds, and see that the prescribed regulations for rifle practice are carried out by the national guard, and that the proper returns thereof are made out; to report direct to general headquarters from time to time the improvement in marksmanship among the uniformed forces, together with all other matters pertaining to his duties. Commandants of brigades, regiments, and companies shall furnish to the general inspector of rifle practice such information as he shall require in regard to the rifle practice of their commands, and as to the number and condition of all targets or other military property of the State issued to their respective commands for use in rifle practice; and if, at the conclusion of his inspection of any armory, range, or practice grounds, he shall find any property appertaining to rifle practice which ought to be kept therein, missing, injured, unfit for use, or deficient in any respect, or that such range or practice ground is dangerous, he shall forthwith report the facts in respect thereto to general headquarters. He may, from time to time, examine the officers upon the theory and practice of marksmanship, and upon the system of instruction of rifle practice. It shall be his duty to attend, as far as practicable, all general competitions in marksmanship among the national guard, and

see that such competitions are conducted with fairness and according to prescribed regulations. He shall make an annual report to general headquarters, in which he shall state the result of all competitions in marksmanship, with the names of the winners, together with such suggestions as he may see fit.

Brigade inspector of rifle practice—Duties.

SEC. 2. The brigade inspector of rifle practice shall have supervision of all matters appertaining to rifle practice, within the limits of their respective brigades, under the directions of the brigade commander, as prescribed for the general inspector of rifle practice. They shall report to such general inspector of rifle practice, whenever required by him, the condition of rifle practice in their respective brigades, and what practice of that description has been carried on during any period; and shall also, at his request, report to him upon any matter relating to rifle practice which may require examination, within their respective brigades. They shall attend the competitions for any prizes that may be offered by the State to the command to which they are attached, or that may be arranged between any of the companies of their brigades, and see that the same are conducted with fairness, and according to the prescribed regulations for such competitive matches, and report to the general inspector of rifle practice the result of all such competitions, with the names of the winners, together with such suggestions as they may see fit to make.

Regimental and battalion inspectors—Duties.

SEC. 3. The regimental and battalion inspectors of rifle practice shall have supervision of all matters appertaining to rifle practice, within the limits of their respective regiments or battalions, as prescribed for the brigade inspector of rifle practice; they shall report to said brigade inspector of their respective brigades the condition of rifle practice in their respective regiments or battalions, and what practice has been carried on during any period; and shall also, at his request, report to him upon any matter relating to rifle practice which may require examinations, within their respective regiments or battalions. They shall attend the competitions for any prize that may be offered, or that may be arranged between any of the companies of their respective regiments or battalions, and see that the same are conducted with fairness and according to the prescribed regulations for such competitive matches, and report to the brigade inspector of rifle practice the result of all such competitions, with the names of the winners, together with such suggestions as they may see fit.

SEC. 4. This act shall take effect and be in force from and after its passage.

2076. Who may appoint courts-martial.

SEC. 2076. The following officers may appoint courts-martial:

First—The commander-in-chief for the trial of general officers, and all officers of the staff of the commander-in-chief.

Second—The major-general, for the trial of all staff officers of the division and brigades, and for the field officers of battalions and regiments.

Third—Brigadier-generals, for the trial of officers and soldiers in their respective brigades.

Fourth—Commanding officers of regiments and battalions, for the trial of all enlisted men of their respective commands. Commanding officers of batteries or of unattached companies, for the trial of all enlisted men of their respective commands. For the trial of enlisted men, the commanding officer of each brigade, regiment, battalion, or unattached company, may, at any time, appoint a regimental, battalion, or company court-martial, to consist of one officer

whose rank is not below that of captain, or in an unattached company, that of first lieutenant.

Fifth—The officer appointing said court shall fix the day on which it shall convene, and, when convened, the court may adjourn from time to time as shall become necessary for the transaction of business; but the whole session of the court, from the day on which it shall convene until its dissolution, shall not exceed three weeks, and in case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court, or his successor in command, may fill such vacancy or order a new court.

Sixth—The officer constituting such court shall, before he enters on his duties as such, take the following oath: I, ———, do swear (or affirm) that I will well and truly try and determine, according to evidence, all matters between the people of the State of California and any person or persons who may come before the regimental (or battalion) court-martial to which I have been appointed; and such oath shall be taken by him before a justice of the peace of the county in which he resides, or a field officer of his regiment or battalion, and it shall be the duty of such justice of the peace or field officer to administer the oath without fee or reward.

Seventh—Such court shall direct a non-commissioned officer, or other fit person or persons to be by him designated, to summon all delinquents and parties accused to appear before the court at a time and place to be by him appointed, which service shall be personal or by leaving such summons at the residence of such delinquents and parties accused.

Eighth—Such non-commissioned officer, or other person or persons so designated, shall make the like returns, and with like effect as commissioned and non-commissioned officers are authorized and required to make in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty.

Ninth—The court, when organized, shall have the trial of all offenses, delinquencies, and deficiencies that occur in the regiment or battalion for which it shall have been appointed, and also of any that occur in the separate troops or batteries attached to the same brigade, and the said court shall have power to impose and direct to be levied all the fines or penalties to which enlisted men are declared to be subject by the provisions of this chapter.

Tenth—The proceedings and sentence of any such court shall, without delay, be delivered to the officer ordering the court, who shall approve or disapprove of the same within fifteen days thereafter, and shall give notice of his approval or disapproval to the president thereof, and from the sentence of any such court imposing a fine or penalty for any offense, delinquency, or deficiency, an appeal, if made within twenty days after the fine or penalty was made known to the person fined, shall be allowed to the officer ordering the court, or to his successor in command, and he may remit or mitigate such penalty or fine. [*Amendment, approved March 12, 1878; Amendments 1877-8, 37; took effect immediately.*]

2077. Organization and rules.

Sec. 2077. Courts-martial appointed under the provisions of this chapter are organized in like manner, and subject to the rules and regulations governing courts-martial in the United States army, so far as the same may be applicable and not inconsistent with the laws of this State, and the rules and regulations and forms established by the commander-in-chief. They have the same power to compel the attendance of witnesses when summoned by them, to preserve order in and about the court-room during sessions, and to punish for contempt,

as the judges for the superior court have under the laws of this State. [*Amendment, approved April 15, 1880; Amendments 1880, 55 (Ban. ed. 220); took effect from passage.*]

2085. Penalty for disobedience to orders, etc.

SEC. 2085. In time of peace every commissioned officer, for disobedience of orders, neglect, or ignorance of duty, unofficerlike conduct, or disrespect to a superior officer, or for neglecting to comply with any of the requirements of this chapter, shall be arrested and brought to trial before a court-martial, which may, on conviction, sentence him to be cashiered, incapacitated from holding any military commission, fined to an amount not exceeding one hundred dollars, or reprimanded, or may sentence him to all or either of such fines and penalties, in their discretion. [*New Section, approved March 12, 1878; Amendments 1877-8, 38; took effect immediately.*]

2086. Penalty for refusal to pay over certain moneys.

SEC. 2086. Every commissioned officer refusing to pay over moneys in his hands, which came into his possession by virtue of his position as an officer of the national guard, shall be liable to be tried and cashiered, or otherwise punished therefor, by a court-martial. [*New Section, approved March 12, 1878; Amendments 1877-8, 38; took effect immediately.*]

2087. Fines and penalties.

SEC. 2087. Every commissioned officer and every enlisted man shall, on due conviction, be subject for the following offenses to the fines and penalties thereto annexed:

First—Every commissioned officer, for non-attendance at any parade or encampment, and every such officer or enlisted man neglecting or refusing to obey the orders of his superior officers on any day of parade or encampment, or to perform such military duty or exercise as may be required, or departing from his colors, post, or guard, or leaving his place or ranks without permission, a fine not more than one hundred nor less than five dollars.

Second—Every enlisted man, for non-appearance when duly warned or summoned at a troop, battery, or company drill or parade, a fine of two dollars for each offense, and in case of a troop parading mounted, a fine of six dollars for each officer; at a regimental or battalion parade, not less than three nor more than six dollars for each offense, and at a place of rendezvous, when called into actual service in case of war, insurrection, or invasion, or imminent danger thereof, a sum not exceeding twelve months' pay nor less than one month's pay; and for disobedience of orders or disrespectful or insubordinate conduct, a fine not exceeding fifty dollars; and also, in the discretion of the court, the offender shall be liable to dishonorable discharge from the command to which he belongs.

Third—Every commissioned officer, or non-commissioned officer, for neglecting or refusing to obey any order or warrant to him lawfully given or directed, or to make a proper return, or neglecting or refusing, when required, to summon a delinquent before a court-martial, or duly to return such summons, a fine of not more than one hundred nor less than five dollars. [*New Section, approved March 12, 1878; Amendments 1877-8, 38; took effect immediately.*]

2094. Armory rents, expenses, etc.

SEC. 2094. There must be audited and allowed by the board of military auditors, and paid out of the appropriations for military purposes, upon the warrant of the State controller, to the commanding officer of each infantry or cavalry

company of the national guard, the sum of one hundred dollars per month; and to the commanding officer of each artillery company, or gatling battery company, the sum of one hundred and twenty-five dollars per month, and the additional sum of twenty-five dollars per month for each gun over one; the sums so paid to be used for armory rent, care of arms, and proper incidental expenses of the company. There must also be audited, allowed, and paid out of the same appropriation, to the commanding officer of each regiment or battalion, the sum of five dollars per month for each company in his command, for clerical expenses; and if the regiment or battalion has more than four companies, and has attached to it an organized and uniformed band of not less than twelve pieces, the additional sum of twenty-five dollars per month for such band; to each brigadier-general, five dollars per month for each company in his command; and to the major-general, six hundred dollars per annum; and to each company, a sum necessary for uniforms and to keep the same in repair, not to exceed one hundred and fifty dollars per annum; and to each company the amount necessarily expended for ammunition. [*Amendment, approved April 15, 1880; Amendments 1880, 57 (Ban. ed. 222); took effect from passage.*]

2095. Allowance and payment of company's expenses.

SEC. 2095. No claim must be allowed under the provisions of the preceding section; unless an account of the expenditures for the preceding year, and ending June thirtieth, is made upon the annual muster-roll, certified to by the commanding officer as correct. The demands must be made quarterly in duplicate, signed and sworn to by the officer claiming the same, before any field officer of the national guard, or notary public, and transmitted through the regular military channels, with the approval of each commanding officer through whose headquarters they are required to pass. One copy of such demands shall be filed in the office of the adjutant-general, and one copy sent to the board of military auditors. [*Amendment, approved April 15, 1880; Amendments 1880, 54 (Ban. ed. 219); took effect from passage.*]

2097. Duties of controller and treasurer.

SEC. 2097. The controller of State must draw his warrants for any amount audited and allowed by the board, and the treasurer of State must pay the same out of the appropriation for military purposes. [*Amendment, approved March 12, 1878; Amendments 1877-8, 39; took effect immediately.*]

2099. Allowances to companies.

SEC. 2099. The annual sum of two hundred and fifty dollars must be audited by the board, and paid out of the appropriation for military purposes, to each company of the national guard of sixty members or over, and an amount in proportion to every company of less than sixty members. The amount so audited and allowed must be paid to the commanding officers of such companies, for the use thereof. An itemized statement of the manner in which sums have been expended must be made by such officers to the adjutant-general on the thirtieth day of June in each year, together with a verified statement of the manner in which all moneys received by him from the State have been expended. [*Amendment, approved April 15, 1880; Amendments 1880, 55 (Ban. ed. 219); took effect from passage.*]

2100. All military property State property.

SEC. 2100. All military property paid for out of moneys allowed by the State shall be held to be the property of the State, and must be enumerated in the

annual muster-roll next following its purchase. [*New Section, approved March 12, 1878; Amendments 1877-8, 41; took effect immediately.*]

2107.

[The act of March 12, 1878 (Amendments 1877-8, 40, took effect immediately), purports to amend "paragraph four" of section 2107. It is, to say the least, extremely doubtful whether under the constitution then in force (Art. IV., sec. 25) and which was the same in this respect as the present one, an amendment of a portion of a section was valid, unless the entire section, as amended, was re-enacted and published at length. As the section so amended was not re-enacted or published at length, the author is of opinion there was no valid amendment. But the purported amendment of the paragraph is given as follows:]

Duty of adjutant-general.

Sec. 2107. Paragraph four. To cause so much of the militia laws as shall be in force to be printed and bound in proper form, and distributed, one copy to each commissioned officer, supervisors' clerk, and county assessor in the State, and also to prepare and cause to be furnished to the national guard, at the expense of the State, all necessary blank books, blank forms, and notices to carry into full effect the provisions of this section; and the controller is hereby directed to draw his warrant on the treasurer of the State for the expenses incurred under this section, after having the approval of the board of military auditors. [*Purported amendment of April 12, 1878; Amendments 1877-8, 40. See preceding remarks.*]

2111. Transportation of arms.

Sec. 2111. The transportation of arms, equipments, and military stores issued to troops, or received by the State, and all other military transportation, must be contracted for by the adjutant-general, under the direction of the commander-in-chief, and vouchers for such transportation, when audited by the State board of military auditors, must be paid from the appropriation for military purposes, on the warrant of the controller. [*Amendment, approved March 12, 1878; Amendments 1877-8, 40; took effect immediately.*]

2114. Salary of assistant adjutant-general.

Sec. 2114. The annual salary of the assistant adjutant-general is one thousand eight hundred dollars. [*Amendment, approved April 1, 1878; Amendments 1877-8, 5; took effect from and after December 1, 1879.*]

INSANE ASYLUMS.

2140. Compensation of directors.

Sec. 2140. The directors shall not be directly or indirectly interested in any contract or contracts for supplies furnished said asylum, but shall receive, as their compensation, the sum of ten dollars per day for their services in attending monthly or called meetings of said board, and such mileage as is provided by law for members of the legislature of this State, payable out of any moneys set apart by law for the use and benefit of said asylum, as other bills and accounts against the asylum are paid; provided, the amount so received as per diem compensation for services shall not exceed the sum of one hundred and forty dollars per year to each director. [*Amendment, approved April 1, 1878; Amendments 1877-8, 45; took effect from passage.*]

An Act to provide for the erection of a building for the insane at the State Insane Asylum at Stockton.

Approved April 15, 1880; 1880, 61 (Ban. ed. 234).

[This act appropriated eighty-five thousand dollars for the purpose indicated in the title.]

2221. *Compensation for delivery of insane to asylums.*

SEC. 2221. Persons delivering insane persons at the asylums must receive all expenses necessarily incurred in their transportation, and also a just and reasonable compensation for their own services, the amount of the expenses and compensation in each case to be audited and allowed by the board of examiners, and paid out of any moneys in the State treasury appropriated for that purpose. The necessary expenses of an assistant, when more than one person is required to convey such insane person, shall also be allowed; provided, however, that the person in charge of such insane person shall certify, under oath, the urgent necessity of such assistance. No compensation, except as herein provided, shall be received or allowed for delivering insane persons at the asylums. [*Amendment, approved April 12, 1880; Amendments 1880, 49 (Ban. ed. 192); took effect immediately; repealed all conflicting acts.*]

An Act in relation to the State insane asylum.

Approved March 30, 1878; 1877-8, 767.

Superintendent or assistant to attend meetings of superintendents of American Institutions for the Insane.

SECTION 1. The superintendent of the State insane asylum, at Stockton, or one of his assistants, may attend the annual meetings of the superintendent of the American Institutions for the Insane, and the expenses, not to exceed four hundred dollars per annum, must be audited and allowed by the board of examiners, and paid out of the State treasury. The resident physician of the Napa State asylum for the insane, or one of his assistants, may also attend such annual meetings, and the expenses, not to exceed four hundred dollars per annum, shall also be audited by the board of examiners, and paid out of the State treasury; provided, that the medical superintendent, or one of his assistants, of the Stockton asylum, may attend said meeting in the year eighteen hundred and seventy-eight, and the resident physician, or one of his assistants, of the Napa asylum, may attend said meeting in the year eighteen hundred and seventy-nine, and thereafter the said physicians shall attend said meeting alternately.

Repeal.

SEC. 2. An act entitled an act in relation to the superintendent of the State insane asylum, approved April first, eighteen hundred and seventy-two, is hereby repealed.

SEC. 3. This act shall take effect immediately.

DEAF, DUMB, AND BLIND ASYLUM.

2240. *Clothing and maintenance of pupils.*

SEC. 2240. If the parents or guardian of any pupil in the asylum for the deaf, dumb, and blind shall be unable to clothe such child, the parent or guardian may testify to such inability before the judge of the superior court of the county wherein he or she is resident, and if said judge is satisfied that the parent or guardian is not able to provide suitable clothing for the child, he shall issue a certificate to that effect; and, upon presentation of such certificate, it shall be the duty of the directors of said asylum to clothe the child, the

2240-2316 AMENDMENTS TO THE POLITICAL CODE.

expenses to be paid out of the appropriations made for the support of the asylum. All pupils in the asylum shall be maintained at the expense of the State. [*Amendment, approved April 3, 1880; Amendments 1880, 21 (Ban. ed. 110); took effect immediately.*]

2282.

An Act to provide for the erection of buildings and improvements for the deaf and dumb and blind asylum.

Approved April 9, 1880; 1880, 37 (Ban. ed. 190).

[This act appropriated seventy-three thousand dollars to erect an additional home, complete dining room, kitchen, and culinary offices, make brick foundation under workshop building, and increase the water supply.]

An Act to reimburse the support fund of the deaf and dumb and blind asylum.

Approved April 16, 1880; 1880, 118 (Ban. ed. 384).

[This act appropriated eight thousand five hundred and thirty-two dollars to reimburse the support fund, for moneys borrowed from it for erecting laundry and furnishing the asylum.]

SAN FRANCISCO LAW LIBRARY.

2316.

An Act to amend an act entitled "An Act to provide for increasing the law library of the corporation known as the San Francisco Law Library, and to secure the use of the same to the courts held at San Francisco, the bar, the city and county government, and the people of the city and county of San Francisco," approved March 9, 1870.

Approved April 12, 1880; 1880, 40 (Ban. ed. 194).

[The original act of March 9, 1870, will be found in the statutes of 1869-70, 235. The foregoing act amended sections one and six of the original act, as follows:]

Board of trustees; how constituted.

SECTION 1. The San Francisco law library, from and after the acceptance of the provisions of this act in the mode hereinafter provided, shall be under the direction and control of a board or trustees, consisting of the mayor of the City and County of San Francisco, four judges of the superior court of the City and County of San Francisco having the shortest term to serve, all of whom shall be ex officio members of said board, and seven other trustees, who shall be elected by the shareholders, as hereinafter provided, at the regular annual meeting of the shareholders, or at such other meeting as may be called for the purpose by the president of the board of trustees. Any six members of said board of trustees herein provided for, shall constitute a quorum for the transaction of business.

Library fund.

SEC. 6. On the commencement in or removal to said superior court of the City and County of San Francisco of any civil action or proceeding, on filing the first papers therein, the party instituting the proceeding or filing the said first papers, shall pay to the clerk of said court the sum of one dollar, as costs, for a fund which shall be designated the "Library Fund," to be expended by the trustees of the San Francisco law library in the purchase of such books and periodicals as they may select for such library, and for such other purposes connected with said library as they may deem necessary; and before the filing of the papers in the case, the clerk shall demand and collect said sum, for which sum so required to be collected the said clerk and his sureties shall be responsible on his official bond; the clerk shall keep a true and accurate account of all such sums so received and required to be collected and shall pay

over the same at the end of each month to the treasurer of the said San Francisco law library, taking duplicate receipts therefor, one of which shall be filed by the clerk in his office, and the other, together with a certificate of the true number of causes and civil proceedings commenced in said court, or removed thereto, during the preceding month subject to such payment, under his hand and seal, shall be delivered to the recording secretary of the said San Francisco law library, and be filed by him and kept as a part of the records of his office; and all moneys collected by the said clerk on proceedings instituted in said superior court since January first, eighteen hundred and eighty, in pursuance of the terms of said section six, shall be accounted for and paid over to the treasurer of said San Francisco law library in the manner provided in this section for funds hereafter to be collected.

[The act containing the foregoing amendments was to take effect upon the acceptance of its provisions by the San Francisco Law Library at a meeting of its shareholders, to be called for that purpose. The meeting was called and the provisions of the act accepted in May, 1880.]

PUBLIC WATERS.

2349.

An Act declaring Sonoma River, in Sonoma County, navigable.

Approved February 11, 1878; 1877-8, 72.

Sonoma River, in Sonoma County.

SECTION 1. Sonoma River, in Sonoma County, State of California, is hereby declared only navigable from its mouth to a point three hundred yards along the bank of the said river south of the residence of Captain John Stofen.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

An Act to declare Clear Lake, in Lake County, navigable.

Approved March 29, 1878; 1877-8, 630.

Clear Lake, in Lake County.

SECTION 1. Clear Lake, in Lake County, in the State of California, is hereby navigable. Nothing herein contained shall be deemed to interfere with rights of swamp or overflowed land owners and claimants around the margin of said lake to reclaim the same, as now authorized and provided for by law.

SEC. 2. This act shall take effect and be in force from and after its passage.

An Act to declare Smith River, in Del Norte County, navigable.

Approved March 30, 1878; 1877-8, 790.

Smith River, in Del Norte County.

SECTION 1. Smith River, in Del Norte County, is hereby declared navigable for a distance of four miles above its mouth.

SEC. 2. This act shall take effect and be in force from and after its passage.

An Act to declare the Mokelumne River navigable.

Approved April 3, 1880; 1880, 22 (San. ed. 115).

Mokelumne River.

SECTION 1. The Mokelumne River is hereby declared navigable from the point of confluence of said river with the San Joaquin River to a point on said Mokelumne River one mile below the point where Dry Creek flows into said Mokelumne River, and no further.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect immediately.

An Act to declare the Klamath River navigable.

Approved April 23, 1880; 1880, 136 (Ban. ed. 402).

Klamath River.

SECTION 1. The Klamath River is hereby declared navigable from its mouth to the Town of Orleans Bar.

SEC. 2. This act shall take effect immediately.

2351. Napa Creeks.

SEC. 2351. The streams known as First Napa Creek, Second Napa Creek, and Third Napa Creek, in the County of Sonoma, and between the Napa and Sonoma Rivers, in the County of Sonoma, are hereby declared navigable waters of the State, in pursuance of Title Sixth, Chapter One, Article One, of Part Three, of said Code. [*Amendment, approved March 26, 1878; Amendments, 1877-8, 45; took effect sixtieth day after passage.*]

2392. Application of proceeds of lumber, when sold.

SEC. 2392. When sold, the proceeds of the lumber must be applied, first, to the payment of the charges of sale, and in liquidation of the expenses and damages awarded to the person entitled thereto; and the residue must be paid to the county treasurer, to be by him paid over to the owner, or his representatives, or assigns, on the production of satisfactory proof of ownership to the judge of the superior court of the county, and on his order therefor, made within one year after its receipt. [*Amendment, approved April 3, 1880; Amendments 1880, 21 (Ban. ed. 110); took effect immediately.*]

2393. Subsequent proceeds of lumber, disposition of.

SEC. 2393. The rejection by the judge of any claimant's right to such proceeds is conclusive, unless within six months thereafter he commences action therefor. In case no claim is made or sustained to such proceeds, the same must, by the county treasurer, be placed in the common school fund of the county. [*Amendment, approved April 3, 1880; Amendments 1880, 21 (Ban. ed. 110); took effect immediately.*]

2407. Perishable property.

SEC. 2407. If it is in a perishable state, the sheriff must apply to the judge of the superior court, upon a verified petition, for an order authorizing him to sell it. If the judge is satisfied that a sale of the property would be beneficial to the parties interested, he must make the order applied for, and the property must then be sold at public auction, at the time and in the manner specified in the order; and the proceeds, deducting the expenses of sale, as the same is settled and allowed by such judge, must be paid to the treasurer of the county. [*Amendment, approved April 3, 1880; Amendments 1880, 21 (Ban. ed. 110); took effect immediately.*]

2408. Order for surrender of perishable property to claimant.

SEC. 2408. If, within a year after the finding, any person claims the property, or its proceeds, and establishes his claim by evidence satisfactory to the judge of the superior court, such judge must make an order directing the officer in whose possession the property or its proceeds may be, to deliver the same to the claimant, upon the payment of a reasonable salvage and the necessary expenses of preservation. [*Amendment, approved April 3, 1880; Amendments 1880, 22 (Ban. ed. 110); took effect immediately.*]

2410. Action on bond.

SEC. 2410. If the bond becomes forfeited, the judge of the superior court, upon the application, supported by proof of the person entitled to the benefit of it, must make an order for its prosecution for such person's benefit, and at his risk and expense. [*Amendment, approved April 3, 1880; Amendments 1880, 22 (Ban. ed. 111); took effect immediately.*]

2413. Proceedings to settle disputed claims to salvage.

SEC. 2413. If, in any case, the amount of salvage and expenses are not settled by agreement, the superior court of the county, on the application of the owner or consignee of the property, or the master or supercargo having charge thereof at the time of the wreck, or of a claimant having an order therefor, or of a person claiming salvage or expenses, must determine the same in a summary way, either by itself hearing the allegations and proofs of the party, or by referring the questions to three disinterested freeholders of the county, who must have the same powers and must proceed in the same manner as referees in civil actions, and whose decisions as to the whole amount, and as to the sums to be paid to each person interested, must be entered as the judgment of the court. [*Amendment, approved April 3, 1880; Amendments 1880, 22 (Ban. ed. 111); took effect immediately.*]

2415. Wrecked property not claimed to be sold.

SEC. 2415. If, within a year after saving wrecked property, no claimant of the property or its proceeds appears, or, if within three months after a claim, the salvage and expenses have not been paid, or a suit for the recovery of the property or its proceeds has not been commenced, the officer in whose custody it may be must sell it at public auction, if not already sold, and pay the proceeds of such sale, deducting salvage and expenses, into the treasury of this State for the benefit of the parties interested; but in no case must any deduction of salvage and expenses be made, unless the amount has been determined by the superior court of the county, a copy of whose order, and of the evidence in support thereof, must be transmitted by the judge to the controller. If any money paid to a county treasurer, under section twenty-four hundred and seven, remains in his hands more than a year after it has been paid to him, the same must be paid into the State treasury. [*Amendment, approved April 3, 1880; Amendments 1890, 22 (Ban. ed. 111); took effect immediately.*]

2430. Commissions and license.

SEC. 2430. Pilots appointed by commissioners must be carefully examined as to their qualifications, and, if found to be qualified and worthy, must receive license as pilots for the term of twelve months, which license shall be thereafter annually renewed until the commissioners have good cause to withhold such renewal; and whenever the commissioners deem they have such cause, or intend for any reason to withhold such renewal, the secretary of the board of commissioners shall serve notice, in writing, on such pilot, specifying the causes, at least ten days before the expiration of his license; and such pilot shall thereupon be entitled to a full hearing before said board. [*Amendment, approved March 29, 1878; Amendments 1877-8, 46; took effect from passage; repealed conflicting provisions of Code.*]

2457. To examine and license pilots.

SEC. 2457. The board of commissioners must examine and license, in the manner prescribed, not less than fifteen nor more than twenty pilots for the Port of San Francisco, and not more than two pilots for the Ports of Mare

2457-2468 AMENDMENTS TO THE POLITICAL CODE.

Island, Vallejo, and Benicia. [*Amendment, approved March 29, 1878; Amendments 1877-8, 46; took effect from passage; repealed conflicting provisions of Code.*]

2458. Pilots to keep boats.

SEC. 2458. Pilots must at all times keep, for their exclusive use, boats of such description and good condition as directed by the board. [*Amendment, approved March 29, 1878; Amendments 1877-8, 46; took effect from passage; repealed conflicting provisions of Code.*]

2464. Pilots entitled to trial and hearing.

SEC. 2464. Whenever any pilot has been notified that his license will not be renewed, as provided in section two thousand four hundred and thirty of this Code, he shall be entitled to a trial and hearing thereon, in the same manner that other charges and complaints are tried under the provisions of section two thousand four hundred and sixty-three of this Code, and in all such cases, and in all cases of revocation of license, or suspension of a pilot for any cause, the board may, in its discretion, upon written application setting forth the grounds thereof, verified by the party aggrieved, grant a rehearing; and in all cases the final decision of the board shall be subject to review in the county court of the City and County of San Francisco, to which court any such case, with all the papers and proceedings therein, shall be immediately certified by the secretary of said board, when so required by the pilot interested therein. Any case so certified to the county court shall be then tried de novo. The judgment of said court shall be final and conclusive. If the decision of the board be reversed, the judgment shall operate directly to restore the pilot to all his former rights, status, and privileges without further action of the board. But the board shall nevertheless, upon being served with a certified copy of such judgment, restore or renew the license of such pilot as the judgment may direct. [*Amendment, approved March 29, 1878; Amendments 1877-8, 46; took effect from passage; repealed conflicting provisions of Code.*]

2466. Rates of pilotage.

SEC. 2466. The following shall be the rates of pilotage into or out of the Harbor of San Francisco: All vessels under five hundred tons, five dollars per foot draught; all vessels over five hundred tons, five dollars per foot draught, and four cents per ton for each and every ton registered measurement. When a vessel is spoken inward or outward bound, and the services of a pilot are declined, one-half of the above rates shall be paid. In all cases where inward bound vessels are not spoken until inside of the bar, the rates of pilotage and one-half pilotage above provided shall be reduced fifty per cent. Vessels engaged in the whaling or fishing trades shall be exempt from all pilotage, except where a pilot is actually employed. [*Amendment, approved March 29, 1878; Amendments 1877-8, 47; took effect from passage; repealed conflicting provisions of Code.*]

2467. Vessels exempt from pilotage, where.

SEC. 2467. Any vessel in tow of a steam-tug, between the Harbor of San Francisco and the Ports of Mare Island, Vallejo, or Benicia, shall be exempt from all charges for pilotage, unless a pilot be actually employed. [*Amendment, approved March 29, 1878; Amendments 1877-8, 47; took effect from passage; repealed conflicting provisions of Code.*]

2468. Coasting vessels exempt from pilotage.

SEC. 2468. All vessels coasting between San Francisco and any port in Oregon, or in Washington or Alaska Territories, and all vessels coasting be-

tween ports of this State, are exempt from all charges for pilotage, unless a pilot be actually employed. [*Amendment, approved March 29, 1878; Amendments 1877-8, 47; took effect from passage; repealed conflicting provisions of Code.*

2469. *When two pilots offer services.*

SEC. 2469. When two or more pilots shall offer their services to any vessel inward bound, the pilot first offering, or one connected with the same boat, shall have preference, and if the services of another be accepted, the vessel, her appurtenances, and the master and owner thereof, shall be jointly and severally liable to the pilot entitled to such preference for one-half the amount of pilotage he would have been entitled to had his services been accepted. [*New Section, approved March 29, 1878; Amendments 1877-8, 47; took effect from passage; repealed conflicting provisions of Code.*

2470. *Pilot bringing in vessel entitled to take same out.*

SEC. 2470. Any pilot bringing a vessel into the Harbor of San Francisco (or one connected with his boat) shall be entitled to take such vessel to sea again when she next departs; provided, such pilot and those connected with his boat have not in the mean time become in any manner disqualified or incapacitated; and if such preference be disregarded by the master of such vessel, the vessel, master, and owner shall be liable to the pilot entitled to such preference for one half the amount to which he would be entitled if his services had been accepted. [*New Section, approved March 29, 1878; Amendments 1877-8, 47; took effect from passage; repealed conflicting provisions of Code.*

STATE HARBOR COMMISSIONERS.

2527. *Contracts valid only upon what.*

SEC. 2527. No contract or obligation entered into by the harbor commissioners, which creates a liability or authorizes the payment of money, shall be valid or of binding force, unless signed by all three of the commissioners and countersigned by the secretary of the board; nor shall any contract involving the payment of money be made by the said commissioners, unless the amount then to the credit of the harbor improvement fund, together with the revenue estimated to accrue up to the time of the maturity of such contract, over and above the current expenses of the commission, be sufficient to meet the payments to become due thereon; provided, such estimate of revenue shall be limited as to time, to one year, and as to amount, to the amount of revenue of the preceding year. [*Amendment, approved March 19, 1878; Amendments 1877-8, 48; took effect from passage.*

2536. *Proposals and contracts for construction of new sea-wall.*

SEC. 2536. When the commissioners determine to construct any part of the sea-wall, they must advertise for sealed proposals for not less than thirty days in not less than two daily papers in San Francisco. The advertisement must give a full and accurate description of the work to be done, the place where to be done, and the material to be used. On the day stated in the advertisement, the bids must be opened in the presence of such bidders as are present, and the contract awarded to the lowest bidder, who shall give a bond, with two or more responsible sureties, to be approved by the commissioners, for the due performance of the work. Their approval must be indorsed on said bond. If, in the opinion of the commissioners, the bids are too high, they shall reject them and advertise anew, in like manner as before. And if, in the opinion of the com-

missioners, the second bids are also too high, they shall reject them likewise, and may enter into a contract with responsible parties without giving further notice. The parties entering into a private contract with the commissioners, must give a bond, with two or more responsible persons as sureties, to be approved by the commissioners, which approval shall be by writing indorsed upon said bond, conditioned for the faithful performance of the contract. But the consideration agreed to be paid in any contract entered into without giving public notice must be five per cent. lower than the lowest responsible bid rejected. The work to be performed under any one contract shall not exceed one thousand lineal feet of harbor embankment or sea-wall. But the commissioners may enter into as many contracts at the same time as they deem expedient, provided the amount in the harbor improvement fund, together with the revenue estimated to accrue pursuant to section two thousand five hundred and twenty-seven of the Political Code, shall be sufficient to meet the contract price of such work, after deducting the current expenses of the commission and the amount required for the erection and repair of the wharves, dredging the docks and slips, and for incidental expenses; but in no event shall the State be liable on such contracts for any deficiency in the harbor improvement fund. Separate contracts may be entered into for the dredging of a channel for the reception of the rock required for the construction of a harbor embankment; provided, that the advertising of sealed proposals, the receiving and opening of bids, and the awarding of contracts required in this section, shall be complied with in the letting of such work in separate contracts. The commissioners may, if in their opinion it will be more economical, dredge, with the dredge belonging to the State, the channel necessary for the reception of the stone used in the construction of the sea-wall. No contractor who enters into a contract to construct any portion of said sea-wall shall be required to commence the work in less than thirty days after the awarding of the contract. The board shall, at least ten days previous to the holding of any meeting, as provided in this section, notify the governor of the State, and mayor of the City and County of San Francisco, of the time and place and object of the meeting, and request them to be present and take part therein; and at said meeting the governor and mayor shall be deemed additional members of said board, with like powers and rights as the other members thereof; and no contract shall be entered into under the authority of this section without the consent of either the governor or mayor. Neither the commissioners, nor their appointees, shall be interested in any contract for the erection or repairing of any work upon the premises described in this article. Any commissioner or appointee who shall be interested is guilty of a felony. Every proposal shall be accompanied by a certified check for an amount equal to five per cent. of the amount of such proposal, to be made payable to the order of the secretary of the board, conditioned, that if the proposal is accepted and the contract awarded, and if the bidder shall fail or neglect to execute the contract and give the bond required within six days after the award is made, in that case said sum mentioned in said check shall be deemed liquidated damages for such failure and neglect, and shall be paid into the San Francisco harbor improvement fund, and all contracts made pursuant to this title shall provide, under penalties of forfeiture of contract, at the option of the commissioners, that no Chinese or Mongolian labor shall be employed on the work. [*Amendment, approved March 19, 1878; Amendments 1877-8, 48; took effect from passage.*]

2548. *When no tolls or wharfage to be collected.*

Sec. 2548. No tolls or wharfage shall be collected from travelers going on

board or leaving any steamer or ferry, or upon their carriages or baggage, nor from any person or vehicle employed to transport or convey said baggage to or from any steamer or ferry; nor for empty packages returned to the wharf or any vessel; nor for domestic supplies for private individuals, intended for consumption and not for sale, weighing less than one hundred pounds. [*Amendment, approved March 29, 1878; Amendments 1877-8, 50; took effect from passage.*]

2552. Salaries of officers.

SEC. 2552. The salary of each commissioner, except the governor and mayor, is two hundred and fifty dollars per month; the salary of the attorney at law and the secretary is two hundred dollars per month each; the salary of the chief wharfinger is two hundred and fifty dollars per month; the salary of the chief engineer is two hundred and fifty dollars per month; the salary of the assistant secretary and the assistant chief wharfinger is one hundred and fifty dollars per month each; the salary of the wharfingers is one hundred and twenty-five per month each; and the salary of the toll collectors is one hundred dollars per month each. All of which salaries shall be payable monthly; provided, that no ex officio officer or consulting engineers shall receive any compensation except traveling and other incidental expenses. [*Amendment, approved March 18, 1878; Amendments 1877-8, 50; took effect from passage.*]

An Act concerning the water front of the City and County of San Francisco.

Approved March 15, 1878; 1877-8, 263.

2554. Line for harbor embankment ratified.

SEC. 1. So much of the line for a harbor embankment or sea-wall of the Port of San Francisco, adopted on the twelfth day of September, one thousand eight hundred and seventy-seven, by the governor, the mayor of the City and County of San Francisco, and the State harbor commissioners, and indicated on the maps filed in the office of the said board of harbor commissioners and of the recorder of the City and County of San Francisco, as extends from the east line of Taylor Street to the boundary line between the City and County of San Francisco and the County of San Mateo, is hereby ratified and confirmed, and shall be known as the "Water Front Line" of the City and County of San Francisco; and so much of said line of harbor embankment or sea-wall as extends from the east line of Taylor Street to the eastern line of the Presidio Reservation is hereby annulled and vacated.

Limit of jurisdiction.

SEC. 2. The inshore limit of the jurisdiction of the board of State harbor commissioners shall be and remain the same as defined in section twenty-five hundred and twenty-four of the Political Code; but when any section of the sea-wall and thoroughfare hereinafter mentioned is constructed and ready for use, then the inshore limit of their jurisdiction as to such section shall be the inner line of said thoroughfare. But their jurisdiction in and over China, Central, South, India, and Dry Dock Basins, and in and over Channel street, and Islais Creek Channel, and the canal opening into South Basin, shall extend as far as the ebb and flow of tide water.

"East Street."

SEC. 3. The said commissioners are authorized and directed to lay out and open along said water front line, a thoroughfare of the uniform width of two hundred feet, the inner line of which shall be parallel with the water front line; provided, that its inner line between Market Street and Folsom Street shall

correspond with the present line of East Street, and its inner line between Clay Street and Sacramento Street shall be a straight line drawn from the intersection of the north line of Clay Street with the inner line of the thoroughfare to the intersection of the north line of Sacramento Street with the north line of Market Street extended, and its roadways and sidewalks shall conform to such deviation from its uniform width; provided further, that a sum not less than one hundred thousand dollars shall be expended in the construction of wharves, piers, ferry-slips, or bulkhead, on the water front between the westerly line of Mason Street and the easterly line of Kearny Street, as may seem best in the judgment of the State board of harbor commissioners; the said money to be expended, and the work to be done, within one year from and after the passage of this act. It shall have a roadway of one hundred and eighty feet, and a sidewalk on its inner side of twenty feet in width. It shall be known and designated on the map of the city and county as "East Street." The said roadway shall be constructed and kept in repair by the said commissioners. It shall be constructed by contract, as provided in section twenty-five hundred and thirty-six of the Political Code, and be kept in repair as provided in section twenty-five hundred and twenty-four of same Code. The sidewalk shall be constructed and kept in repair in the manner provided by law for the construction and repair of sidewalks on other streets of the City of San Francisco. In case the said roadway or sidewalk be obstructed, the said commissioners shall cause such obstructions to be removed in the manner provided in section twenty-five hundred and twenty-four of the Political Code, and section nine of this act; provided, that they may grant the use and occupation of spaces along the water front for offices and baggage rooms, and for scales for weighing freight, and may charge therefor a reasonable rent. The said commissioners shall have jurisdiction over said thoroughfare for the purposes of construction, repair, removal of obstructions, and collection of dockage, wharfage, rents, and tolls, and for commercial purposes; and no franchise or privilege for a railroad track along said thoroughfare shall be granted by the supervisors of the City and County of San Francisco.

Extension of jurisdiction.

SEC. 4. So much of the act approved March 11, eighteen hundred and seventy-four, entitled "An Act to amend an act entitled an act to vacate certain streets, alleys, and market places in the City and County of San Francisco, and to donate the same and other tide lands belonging to the State of California to said City and County of San Francisco, for commercial purposes, and other matters relating thereto," approved March thirteenth, eighteen hundred and seventy-two, as grants to the City and County of San Francisco the power to lease the basins known as China and Central Basins, is hereby repealed; and the said basins, and also South, India, and Dry Dock Basins, as laid out by the board of tide land commissioners, and Channel Street, Islais Creek Channel, and the canal opening into South Basin, as far as the ebb and flow of tide in them, are hereby dedicated to public use for the purposes of commerce and navigation, and shall be subject, together with the streets inclosing or bounding on them, and the sea-wall and thoroughfare constructed across their openings, to the jurisdiction of the said commissioners, as provided in the act approved February twenty-eighth, eighteen hundred and seventy-six, entitled "An Act to amend an act entitled an act to establish a Political Code, approved March twelfth, eighteen hundred and seventy-two, and to add a new section thereto." In case the sea-wall or thoroughfare be extended across them, openings therein, with proper

draw-bridges, shall be constructed, of sufficient width to allow free and easy entrance and exit, and then they shall be dredged to such depth as may be needed by the class of vessels using them.

Streets to intersect sea-wall.

SEC. 5. Whenever any section of the sea-wall and thoroughfare is constructed and ready for use, the board of supervisors shall cause the streets of the city to be extended and constructed, so as to intersect said section; and in case any such streets have been widened by the harbor commissioners, they shall be con-[tracted] to their original width before such widening, and be so extended. When extended, they shall be deemed public streets, and their roadways and sidewalks, to the intersection of the thoroughfare, shall be constructed and kept in repair in the manner provided by law for the construction and repair of the public streets of the City of San Francisco.

Dedication to public use of streets and blocks.

SEC. 6. The blocks and parts of blocks formed by the change of the water front and the extension of streets to the thoroughfare aforesaid, are hereby set apart and dedicated to public use as open spaces, to be used in connection with said thoroughfare, and for the same purposes, and the said commissioners shall put the same in proper condition for such use. Said spaces, when prepared for use, shall be on a level with said thoroughfare, and the sidewalks shall be constructed with proper openings for the passage of vehicles. The commissioners shall have the same jurisdiction and control thereof as over said thoroughfare and the wharves. [Amendment, approved March 17, 1880; 1880, 10 (Ban. ed. 31); took effect from passage; repealed all inconsistent acts.

Sea-wall declared a public use.

SEC. 7. The said sea-wall and thoroughfare is hereby declared a public use, in the laying out and construction of which the right of eminent domain may be exercised by the harbor commissioners, in the name of the people of the State, for the estates and rights, and in the manner provided in Part Three, Title Seven, of the Code of Civil Procedure; and said commissioners are authorized to pay out of the harbor improvement fund any compensation and damages assessed in such proceedings. But said commissioners, for the purpose of obtaining the material for such construction, may enter into contract without resorting to such proceedings.

Berths and slips.

SEC. 8. The commissioners are authorized to assign berths and slips for the exclusive use of sea-going steamers, ferry-boats, and steamboats navigating the waters of the Bay of San Francisco and its tributaries, and to construct suitable offices, sheds, and inclosures for the accommodation of their business, and may charge for such exclusive use a reasonable sum, irrespective of their tonnage or the number of days such berth is occupied.

Wharfage and tolls, how enforced.

SEC. 9. For the purpose of enforcing the charge for wharfage or tolls on goods, wares, and merchandise landed on any wharf, pier, or thoroughfare, or remaining thereon longer than the time prescribed by the harbor regulations, the said commissioners are authorized to take possession of such goods, wares, and merchandise, and if such charge be not paid within two days thereafter, may remove and store the same at the charge, risk, and expense of the owner or consignee thereof, or may sell the same by public auction, with or without notice, at their discretion; and for the purpose of keeping the wharves, piers,

and thoroughfares free of obstructions, the said commissioners shall cause a written notice to be served on the owner, agent, consignee, or person in possession of any such obstructing material or structure, or may post a notice thereon, at their discretion, requiring its removal within twenty-four hours thereafter; and, on failure to comply therewith, the commissioners may remove, store, or sell the same by public auction, at their discretion. From the proceeds of any such sale, they shall retain all the wharfage and tolls due, with ten per cent. thereon, and in case of obstructions, twenty-five dollars for each and every [day] during which the wharf, pier, or thoroughfare has been obstructed, and also all the expenses attending such sale, and the surplus, if any, shall be paid to the proper party. Such sale shall be made subject to immediate removal.

Penalty for non-payment of wharfage.

SEC. 10. Any water-craft that shall leave any wharf, pier, quay, landing, thoroughfare, slip, dock, or basin, unless forced to do so by stress of weather, without first paying the dockage due from such vessel, shall be liable to pay, in addition to the penalty prescribed by Section 2524 of the Political Code, the sum of ten dollars.

SEC. 11. This act shall take effect from and after its passage.

An Act to amend section six of an act entitled "An Act concerning the water front of the City and County of San Francisco," approved March 15, 1878, and to confer further powers upon the board of State harbor commissioners.

Approved March 17, 1880; 1880, 10 (San. ed. 31).

[Section 1 consists of the amendment to section 6 of the foregoing act, therein inserted.]

North Beach water front for landing merchandise.

SEC. 2. The said commissioners are authorized to set apart and use that portion of the water front and thoroughfare situated between the west line of Powell street and north line of Francisco street for the landing and loading of grain and other merchandise, and may erect thereon such sheds and structures as may be necessary for sheltering the same; provided, that a roadway of not less than seventy-five feet on the inner side of the thoroughfare shall be left open for the passage of vehicles. They may, from time to time, fix the rates and prescribe the terms and conditions on which such sheds and structures may be used, and shall have the same control over them as over the wharves and other part of the water front; provided, that they shall assume or incur none of the duties or obligations of warehousemen.

Depots.

SEC. 3. The said commissioners are authorized to set apart spaces on the water front as depots for the landing of the passenger and freight cars of railroad companies, and may construct such docks, wharves, and sheds as may be needed for that purpose. They must require a proper rent to be paid for such spaces and structures, and the dockage on the steamers transporting such cars, and the wharfage on merchandise put on or off such cars or passing through such depots, shall be the same as prescribed by the general regulations of the board.

Adjustment of rates of wharfage.

SEC. 4. As soon as practicable the rates of wharfage on merchandise and other articles must be adjusted and classified upon such system, and be collected in such manner and by such officers as the commissioners may determine and direct. The duties of such officers, their compensation and amount of

bond for faithful performance of duty, shall be fixed by the commissioners. When such system is put in force, no tolls must be collected by the load or vehicle, on any merchandise passing on or off the wharves, and the system of collection by toll collectors must cease.

When wharfage not collectible.

SEC. 5. No wharfage shall be collected on any merchandise or other article loaded on any vessel or railroad car in the City and County of San Francisco for the purpose of being transported to any port or place in the State of California, nor on any merchandise or other article loaded on any vessel or railroad car at any port or place in the State of California and arriving in the City and County of San Francisco.

Duties of masters, owners, or consignees.

SEC. 6. The master, owner, or consignee of every vessel, and the owner, agent, or manager of every railroad car, at the time of the arrival and before the departure of any such vessel or car, must deliver to the wharfinger, or other proper officer of the commission, a full and correct statement, signed by him as such master, owner, consignee, agent, or manager, of all merchandise of every kind intended to be discharged from or received on such vessel or car, other than such as is referred to in section five of this act, specifying in detail the character and quantity of each kind of such merchandise, and in the case of an arriving vessel or car the names of the consignees or owners thereof, and also the port or place from which such merchandise is brought, or to which it is to be carried. In case any person shall neglect or refuse to deliver such statement as above provided, or shall willfully make a statement false in any of the above recited particulars, he shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding fifty days, or by both such fine and imprisonment.

Discharge or receipt of freight without paying wharfage, misdemeanor.

SEC. 7. In case the master, agent, or owner of any vessel, or the owner, agent, or manager of any railroad car, shall discharge from or receive on or allow to be discharged from or received on such vessel or car any merchandise or other article other than such as is referred to in section five of this act, before the wharfage thereon has been paid, of which payment the only evidence shall be a receipt signed by the wharfinger, or other proper officer of the commission, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one hundred days, or by both such fine and imprisonment; provided, that the warrant of arrest may be discharged at any time before trial by the payment of the wharfage on such merchandise or other articles wrongfully discharged or received, together with the costs of the legal proceedings.

Commissioners may release parties from obligations.

SEC. 8. The said commissioners may, by written permits, release parties from the obligation to deliver the statement required by section six, or to pay wharfage before the discharge or receipt of merchandise or other articles as required by section seven; provided, that before any part of such merchandise or other articles are discharged or received, a proper and sufficient guaranty in writing shall be given to the said commissioners for the payment of all wharfage thereon. Such guaranty shall be deemed an original obligation on the part of the

guarantor, and no other consideration therefor need exist or be expressed than the acceptance of the said permit.

Discriminations in fixing rates of dockage.

SEC. 9. In fixing the rates of dockage the said commissioners may make such discriminations as they deem advisable between American and foreign vessels, and between vessels engaged in coastwise trade and those navigating exclusively the Bay of San Francisco and its tributary waters.

Lessees of State, what rates of dockage and wharfage to collect.

SEC. 10. The lessees of the State or the commissioners shall charge and collect the same rates of dockage and wharfage as may be established by the said commissioners in pursuance of this act; provided, that this section shall not be deemed to confer any new or additional rights on any of said lessees.

Lien for wharfage.

SEC. 11. Nothing in this act shall be deemed to divest the said commissioners of the lien on merchandise and other articles for its wharfage, or of the right to enforce such lien as is provided by existing statutes.

SEC. 12. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 13. This act shall take effect from and after its passage.

2567. Harbor commissioners for the Port of Eureka.

SEC. 2567. There is a board of three commissioners known as the "Board of Harbor Commissioners of the Port of Eureka." The mayor of the City of Eureka, in the County of Humboldt, is an ex officio member thereof, and one of said commissioners shall be appointed by the governor of this State, and shall hold his office for two years, and until his successor is appointed and qualified; and the other of said commissioners shall be appointed by the governor, and shall hold his office for the term of four years, and until his successor is appointed and qualified. And appointments to fill vacancies, which may hereafter occur in the board of harbor commissioners of the Port of Eureka, shall be for the term of four years, and no person shall be eligible to the office of harbor commissioner of said Port of Eureka, unless he be a resident of the City of Eureka. [*Amendment, approved February 12, 1878; Amendments 1877-8, 51; took effect from passage.*]

2568. Power of board.

SEC. 2568. The board of harbor commissioners of the Port of Eureka are authorized and empowered to make such rules and regulations, and take such action as may be necessary or proper for the protection of navigation in Humboldt Bay, or in any slough or creek emptying into the same so far as the tide ebbs and flows. [*Amendment, approved February 12, 1878; Amendments 1877-8, 51; took effect from passage.*]

HIGHWAYS.

2645. Counties classified for highway purposes.

SEC. 2645. For highway purposes the counties of this State are divided into two classes:

First—The Counties of Alameda, Colusa, Fresno, Lake, Los Angeles, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Yolo, Yuba, constitute the first class.

Second—The Counties of Alpine, Amador, Butte, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Inyo, Kern, Lassen, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Plumas, San Bernardino, San

Diego, San Luis Obispo, Shasta, Santa Barbara, Santa Cruz, Sierra, Siskiyou, Sonoma, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, constitute the second class.

Third—In all counties of the second class each township shall constitute, and is hereby made and declared, one road district; provided, that the board of supervisors may, on petition to fifty taxpayers of any township, divide such township into two or more districts, as they may deem necessary, for road purposes. [*Amendment, approved April 16, 1880; Amendments 1880, 67 (Ban. ed. 356); took effect from passage; repealed conflicting acts in counties of second class.*

2646. Road overseers.

SEC. 2646. There must be elected in all the counties of the second class, at the general election in the year eighteen hundred and eighty, and every two years thereafter, one elector of each and every road district in the county to act as road overseers in their respective districts, to hold office for two years, commencing on the first Monday of January next succeeding their election, or until their successors are elected and qualified. They must give an official bond in such sum as the board of supervisors may determine, and take the usual oath of office. All road overseers now in office must hold office and exercise the duties thereof until their successors are elected and qualified under the provisions of this act. [*Amendment, approved April 16, 1880; Amendments 1880, 68 (Ban. ed. 356); took effect from passage; repealed conflicting acts in counties of second class.*

2647. Supervisors to have general supervision.

SEC. 2647. The boards of supervisors of the several counties of this State shall have general supervision over the roads within their respective counties. They must, by proper ordinance:

1. Cause to be surveyed, viewed, laid out, recorded, opened, and worked, such highways as are necessary for public convenience, as in this chapter provided.

2. Cause to be recorded as highways such roads as have become such by usage or abandonment to the public.

3. Abolish or abandon such as are necessary.

4. Contract, agree for, purchase, or otherwise acquire the right of way over private property for the use of public highways, and for that purpose institute, or require the district attorney to institute, proceedings under title seven, part three, of the Code of Civil Procedure, and to pay therefor from the district road fund of the particular district.

5. Let out by contract the improvement of the highways and the construction and repair of bridges, or other adjuncts of highways, when the amount of work to be done by contract exceeds two hundred dollars.

6. Levy a property road tax.

7. Order and direct overseers specially in regard to work to be done on particular roads in their districts.

8. Cause to be erected and maintained on the highways they may designate, mile-stones, or posts, and guide-posts, properly inscribed.

9. Cause the road tax collected each year to be apportioned to the several road districts entitled thereto, and kept by the treasurer in separate funds.

10. Audit and draw warrants on the funds of the respective road districts when required to pay for right of way, or work, or improvements thereon. [*Amendment, approved April 16, 1880; Amendments 1880, 68 (Ban. ed. 356); took effect from passage; repealed conflicting acts in counties of second class.*

2648.

[Sec. 2618 was repealed by act approved April 16, 1880; Amendments 1880, 75 (Ban. ed. 366); took effect from passage.]

2649. Overseers notified to give bond, take oath, etc.

Sec. 2649. When overseers of road districts receive notice of their election or appointment from the board of supervisors, they must, within ten days thereafter, give the official bond required by said board, and take the usual oath of office. The notice and certificate that the bond has been approved and filed, and the oath taken and indorsed thereon, or a certified copy thereof, constitute a commission, and authorizes the person named therein and holding the same to discharge the duties of overseer until superseded. [*Amendment, approved April 16, 1880; Amendments 1880, 69 (Ban. ed. 357); took effect from passage; repealed conflicting acts in counties of second class.*]

2650. Duties of road overseers.

Sec. 2650. Road overseers, under the direction and supervision and pursuant to orders of the board of supervisors, must:

1. Take charge of the highways within their respective districts.
2. Keep them clear from obstructions, and in good repair.
3. Cause banks to be graded, bridges and causeways to be made, where necessary, keep the same in good repair, and renew them when destroyed.
4. Give two days' notice to the inhabitants of his road district liable to do work on roads, when, where, and with what implements, and under whose direction to work, and superintend the same.
5. Collect from each inhabitant notified to work and who fails to work, or prefers to pay it, the commutation fee.
6. Make quarterly reports of all labor performed in his district, and how all road taxes and commutation moneys were expended, to the board of supervisors, under oath.
7. Receive and present petitions for new roads, recommend or disapprove the same, and assist in laying them out.
8. Collect all road taxes in the mode provided for the collection of other road poll taxes, and faithfully account for and pay over all moneys unexpended by him to the county treasurer, to be placed to the credit of the proper road district.
9. Receive for his services, from money in the treasury belonging to his road district, the sum of three dollars per day for each day's service performed by him, to be audited and ordered paid by the board of supervisors. [*Amendment, approved April 16, 1880; Amendments 1880, 69 (Ban. ed. 357); took effect from passage; repealed conflicting acts in counties of second class.*]

2651.

[Secs. 2651 and 2652, relating to commissioners of highways, were repealed by act approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage.]

2653. General road fund.

Sec. 2653. The board of supervisors may annually set apart from the property road tax collected from all sources, a sum not exceeding twenty per cent. of the aggregate for general county road purposes, from which sum so set apart they may direct such amounts to be paid as may be found necessary for such general county road purposes in which the inhabitants of all the districts within the county are more or less interested, or to assist weak or impoverished districts in keeping their roads in repair, to be applied as the said board may or-

der or direct; provided, that the boards of supervisors in the several counties, or any road overseer, shall have no power to create a debt on any road district in excess of ten per cent. of the estimated amount of receipts from said district for the next ensuing year. [*Amendment, approved April 16, 1880; Amendments 1880, 69 (Ban. ed. 358); took effect from passage; repealed conflicting acts in counties of second class.*]

2654.

[Sec. 2654, relating to bonds of road districts for macadamizing, was repealed by act approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 356); took effect from passage.]

2657. Road poll tax; who to pay.

SEC. 2657. Every male inhabitant of a road district, over twenty-one and under fifty-five years of age, must perform two days' labor annually, to be known as the annual road tax, upon the roads and highways of the district, under the demand and direction of the road overseer thereof, or pay to such overseer a commutation fee of three dollars, or such smaller amount as may be fixed by the board of supervisors; provided, however, that the board of supervisors may and they have the power to order that every inhabitant of the county liable for the foregoing road tax shall, in lieu thereof, for any one year pay to the road overseers of his district a road tax of two dollars, which road tax shall be subject to enforced collection in the same manner and by the same process as is provided for the collection of State poll tax. [*Amendment, approved April 16, 1880; Amendments 1880, 70 (Ban. ed. 358); took effect from passage; repealed conflicting acts in counties of second class.*]

2658.

[Sec. 2658, relating to delivery by overseers of lists of inhabitants liable to road poll tax, was repealed by act of April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage.]

2659. Levy thereof.

SEC. 2659. The board of supervisors must, each year, prior to the meeting at which they are required to levy the property tax for county purposes, estimate the probable amount of property tax for highway purposes which may be necessary for the ensuing year, over and above the road tax, and must regulate and fix the amount of property highway tax, and levy the same thereby. [*Amendment, approved April 16, 1880; Amendments 1880, 70 (Ban. ed. 359); took effect from passage; repealed conflicting acts in counties of second class.*]

2660. Receipts therefor.

SEC. 2660. The board of supervisors must provide proper blank road tax receipts, to be signed by the clerk of the board, and must deliver to each road overseer a number equal to the number of inhabitants of their respective districts liable for road tax, take receipts therefor, and charge the road overseer receiving the same therewith; but credit must be given to each road overseer for all unsold blank road tax receipts returned to the clerk of the board of supervisors. [*Amendment, approved April 16, 1880; Amendments 1880, 70 (Ban. ed. 359); took effect from passage; repealed conflicting acts in counties of second class.*]

2661. Collection and application.

SEC. 2661. Road overseers must make out lists of inhabitants of the road districts liable for road tax, and require of each the performance of the labor or the payment of the commutation fee fixed by the board of supervisors, and apply such labor and commutation money in the opening, maintaining, and re-

pairing the highways and adjuncts in their respective districts. [*Amendment, approved April 16, 1880; Amendments 1880, 70 (Ban. ed. 359); took effect from passage; repealed conflicting acts in counties of second class.*

2662. Additions to lists.

SEC. 2662. The road overseer must, from time to time, add to the lists of names of persons liable for road tax who were omitted, or who have become inhabitants of his district since the original list was made, and enforce the road tax, or collect the commutation fee therefor, and apply the same as hereinbefore provided. [*Amendment, approved April 16, 1880; Amendments 1880, 70 (Ban. ed. 359); took effect from passage; repealed conflicting acts in counties of second class.*

2663. Annual property tax, how levied, collected, etc.

SEC. 2663. The annual property tax for road purposes must be levied by the board of supervisors at their session when the tax is by them levied for county purposes, and must not exceed forty cents on each one hundred dollars in value of taxable property. This property road tax, when levied, must be annually assessed and collected by the same officers and in the same manner as other State and county taxes are levied, assessed, and collected, and turned over to the county treasurer for the use of the road districts from which it is respectively collected. [*Amendment, approved April 16, 1880; Amendments 1880, 71 (Ban. ed. 359); took effect from passage; repealed conflicting acts in counties of the second class.*

2664. Cities and towns not to pay tax.

SEC. 2664. The road tax and property tax herein provided for must not be levied or collected from the inhabitants or property of incorporated towns and cities which, by municipal authority, levy such taxes for the streets and alleys thereof. Bridges crossing the line between cities or towns and road districts must be constructed by the cities or towns, and the road fund of the road districts into which such bridges reach, proportionally. [*Amendment, approved April 16, 1880; Amendments 1880, 71 (Ban. ed. 360); took effect from passage; repealed conflicting acts in counties of the second class.*

2681. Employers responsible for tax assessed to employes.

SEC. 2681. Corporations or other employers of residents in any road district are responsible for the road tax assessed against their employes, and a notice to the employer or managing agent, requiring the payment of the road tax of the employe, charges such employer or corporation with such road tax. [*Amendment, approved April 16, 1880; Amendments 1880, 71 (Ban. ed. 360); took effect from passage; repealed conflicting acts in counties of the second class.*

2685. Overseer's report.

SEC. 2685. Every overseer must make to the board of supervisors quarterly a written account, under oath, containing:

1. The names of all persons assessed to work in his district.
2. The names of all who have actually worked, and the number of days.
3. The names of all who have commuted, and the amount received from them.
4. The names of all delinquents, and the amount collected from them.
5. A full return by items of the amount of labor and money expended at each separate point, and the manner in which and the time when the same was done.
6. The number of road tax receipts sold, and of those returned unsold.
7. An accurate account of every day he, himself, was employed, and the

nature and items of the service rendered. [*Amendment, approved April 16, 1880; Amendments 1880, 71 (Ban. ed. 360); took effect from passage; repealed conflicting acts in counties of the second class.*]

2686.

[Sec. 2686, relating to reports by commissioners of highways, was repealed by act of April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage.]

2687. Unexpended moneys.

SEC. 2687. Road overseers must accompany their reports with all unexpended money remaining in their hands at the date of the report. [*Amendment, approved April 16, 1880; Amendments 1880, 71 (Ban. ed. 360); took effect from passage; repealed conflicting acts in counties of the second class.*]

2688. Penalty for failure to make report, etc.

SEC. 2688. A failure to make a report as required, or to pay over on the order of the board of supervisors any moneys in his hands, subjects the overseer to a penalty of twenty-five dollars (\$25), to be recovered in an action on his bond, together with any balance due from him. Suit therefor may be instituted by the district attorney, under order of the board of supervisors. [*Amendment, approved April 16, 1880; Amendments 1880, 71 (Ban. ed. 360); took effect from passage; repealed conflicting acts in counties of the second class.*]

2698. Changing roads.

SEC. 2698. Any ten inhabitants of a road district, taxable therein for road purposes, may petition, in writing, the board of supervisors to alter or discontinue any road, or to lay out a new road therein. [*Amendment, approved April 16, 1880; Amendments, 1880, 72 (Ban. ed. 361); took effect from passage; repealed conflicting acts in counties of the second class.*]

2703. Report of viewers.

SEC. 2703. When the view and survey of the proposed alteration or new road is completed, the viewers must report to the board of supervisors:

1. The course, termini, length, and cost of construction of the proposed road.
2. The estimate of damage to the owner of any land over which it is proposed to run the road.
3. The names of land owners who consent to give the right of way, and their written consent thereto.
4. The names of land owners who do not consent, and the amount of damage claimed by each.
5. Such other facts bearing upon the subject of importance to be known by the board of supervisors.
6. They may also, in their discretion, or by order of the board of supervisors, report upon the feasibility and cost of any other route than the one petitioned for which would subserve the same purposes; and also report as to the necessity of a greater or the practicability of a less width of road than petitioned for. [*Amendment, approved April 16, 1880; Amendments 1880, 72 (Ban. ed. 361); took effect from passage; repealed conflicting acts in counties of the second class.*]

2704.

[Sec. 2704, relating to when report should not be approved, was repealed by act of April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage.]

2706. Hearing of report.

SEC. 2706. The board of supervisors, on the coming in of the report, must fix

a day for hearing the same; must notify the owners of land not consenting to give the right of way of the hearing, by having written notice served on them personally, or on the occupant or agent of the owner; or if neither, by posting notice at the most conspicuous place on the land, or left at the owner's, agent's, or occupant's residence ten days prior to the day fixed for the hearing; and must, on the day fixed for the hearing, or to which it may be postponed or adjourned, hear the evidence and proof from all parties interested for and against the proposed alteration or new road; ascertain, and by order declare, the amount of damage awarded to each non-consenting land owner, and declare the report of the viewers to be approved or rejected. [*Amendment, approved April 16, 1880; Amendments 1880, 72 (Ban. ed. 361); took effect from passage; repealed conflicting acts in counties of the second class.*]

2707. Approval, damages, etc.

SEC. 2707. If the board approve the report, and there are no non-consenting land owners, the road must, by order, be declared a public highway, and the road overseer ordered to open the same to the public. If there are non-consenting land owners, the board must appropriate from the road fund of the district, and cause the road overseer to tender to such non-consenting land owners the award for damages made by the board. If the awards are all accepted, the road must be declared a public highway, and be opened as before provided. [*Amendment, approved April 16, 1880; Amendments 1880, 72 (Ban. ed. 362); took effect from passage; repealed conflicting acts in counties of the second class.*]

2708. Proceedings to procure right of way.

SEC. 2708. If any award of damages is rejected by the land owners, the board must, by order, direct proceedings to procure the right of way to be instituted by the district attorney of the county, under and as provided in title seven, part three, of the Code of Civil Procedure, against all non-accepting land owners, and when thereunder the right of way is procured, the road must be declared a public highway, and opened as hereinbefore provided. But if any non-consenting land owner does not recover a greater amount of damages than shall have been allowed him by the board of supervisors, then he shall pay all costs and expenses incurred by reason of any suit or other proceedings instituted in the matter. [*Amendment, approved April 16, 1880; Amendments 1880, 73 (Ban. ed. 362); took effect from passage; repealed conflicting acts in counties of the second class.*]

2710. Width of highways.

SEC. 2710. All highways must be at least forty feet wide, excepting those now existing at a less width. [*Amendment, approved April 16, 1880; Amendments 1880, 73 (Ban. ed. 362); took effect from passage; repealed conflicting acts in counties of the second class.*]

2711. Private roads, how opened.

SEC. 2711. Any person or persons desiring to obtain a road for private convenience, and not intending the same for the use of the traveling public generally, shall present a petition to the board of supervisors, having a specific description of said proposed road, giving the length, width, and description thereof, the names of all parties owning the land to be affected thereby, and also the conditions to be observed in respect to gates, fences, and other matters agreed upon. If said petition be accompanied by the written consent of all the parties interested in the land so to be crossed by the said road, the

board shall, by its order, declare such road a private or by-road, and said order, with the description, and also the consent of parties to said road, shall be recorded in the road record of the county. In case all parties owning lands on the line of said road do not agree as to the location of said road, and their consent can not be obtained, the same measures shall be taken, and the same laws shall apply, as provided in this Code for the location and establishment of public highways, except that it shall be necessary only for the person or persons desiring such private or by-road, to petition the board of supervisors, as in section two thousand six hundred and ninety-nine of this Code provided. If there be no reasonable way in which the petitioner or petitioners can gain access to the public highway, or to the public schools of his district, other than by passage across the land of said non-consenting owners, and the said petitioner or petitioners execute and file with the county clerk a sufficient bond, with two sureties, to be approved by the supervisors of the district in which said road is sought to be established, conditioned for the faithful payment to said non-consenting owner, owners, or occupant under lease of the land over which said road is to pass if the petition be granted, of all damages that may be sustained from the temporary use thereof by said petitioner or petitioners, pending the final determination of the petition and proceedings had thereunder, the road overseer of said district shall thereupon order the said road temporarily opened. If the owner or owners, or persons in possession of said land, shall refuse to open temporarily said private road, in accordance with the overseer's order, he or they shall be responsible in damages to the party or parties injured thereby, the amount to be determined by a proceeding in a court of competent jurisdiction. In all cases where private roads are established or located, it shall be one of the conditions of the same that the erection of gates, repairs of roads, building of bridges, and all costs of the maintenance of the same, together with the costs of location and damages allowed, if any, shall be paid by and become a charge against the parties seeking or desiring to have the said road so located, and that the road district shall be put to no expense on account thereof. [*Amendment, approved April 16, 1880; Amendments 1880, 73 (Ban. ed. 362); took effect from passage; repealed conflicting acts in counties of the second class.*]

2714. Removal of fences.

SEC. 2714. When the alteration of an old or the opening of a new road makes it necessary to remove fences on land given, purchased, or condemned by order of a court for road or highway purposes, notice to remove the fences must be given by the road overseer to the owner, his occupant, or agent, or by posting the same on the fence; and if the same is not done within ten days thereafter, or commenced and prosecuted as speedily as possible, the road overseer may cause it to be carefully removed at the expense of the owner, and recover of him the cost of such removal, and the fence material may be sold to satisfy the judgment. [*Amendment, approved April 16, 1880; Amendments 1880, 74 (Ban. ed. 363); took effect from passage; repealed conflicting acts in counties of the second class.*]

2724. Bridges, how maintained.

SEC. 2724. All public bridges, not otherwise specially provided for, are maintained by the road district in which they are situate, the districts which they unite, and the county at large, in the same manner as highways, and under the management and control of the road overseer and the board of supervi-

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ors, the expense of constructing, maintaining, and repairing the same being primarily payable out of the road fund of the district in the hands of the road overseer or county treasurer, and from road taxes. [*Amendment, approved April 16, 1880; Amendments 1880, 74 (Ban. ed. 363); took effect from passage; repealed conflicting acts in counties of the second class.*]

2725. When county may help build bridge.

SEC. 2725: Whenever it appears to the board of supervisors that any road district is or would be unreasonably burdened by the expense of constructing, or of the maintenance and repair of any bridge, they may, in their discretion, cause a portion of the aggregate cost or expense to be paid out of the general road fund of the county, or out of the general county fund, or both; or they may levy a special bridge tax therefor, not exceeding one fourth of one per cent. on the taxable property of the county, annually, till the amount appropriated in aid is raised and paid. [*Amendment, approved April 16, 1880; Amendments 1880, 74 (Ban. ed. 364); took effect from passage; repealed conflicting acts in counties of the second class.*]

2726. Construction and repair of bridges.

SEC. 2726. No bridge, the cost of the construction or repair of which will exceed the sum of two hundred dollars, must be constructed or repaired, except on order of the board of supervisors. When ordered to be constructed or repaired, the contract therefor must be let out to the lowest bidder, after reasonable notice given by the board of supervisors through the road overseer, by publication at least two weeks in a county newspaper; and if none, then by three posted notices: one at the court-house, one at the point to be bridged, and one at some other neighboring public place in the county. The bids to be sealed, and opened, and the contract awarded at the time specified in the notice. The contract and bond to perform it must be entered into to the approval of the board of supervisors. [*Amendment, approved April 16, 1880; Amendments 1880, 75 (Ban. ed. 364); took effect from passage; repealed conflicting acts in counties of the second class.*]

2729. Application, etc., to construct bridge.

SEC. 2729. When a bridge, the cost of which will exceed two hundred dollars, is necessary, any five or more freeholders of the road district interested therein, may petition the board of supervisors for the erection of such needed bridge. The board must thereupon advertise such application, giving the location and other facts, for two weeks, in a newspaper printed in the county; if none, then by posters: one at the proposed location, one at the court-house, and one at some other public place in the county, and notify the overseer to attend at a certain time and place to hear the application. [*Amendment, approved April 16, 1880; Amendments 1880, 75 (Ban. ed. 364); took effect from passage; repealed conflicting acts in counties of the second class.*]

2731. Overseer's report as to bridges.

SEC. 2731. Road overseers must, in their official reports, give a full account of all bridges of which they have in whole or in part the charge and maintenance, those constructed or repaired, and the cost thereof, the amounts expended thereon, from what source derived, and the present and prospective condition thereof. [*Amendment, approved April 16, 1880; Amendments 1880, 75 (Ban. ed. 364); took effect from passage; repealed conflicting acts in counties of the second class.*]

2732. County responsible for bridges—Semi-annual meetings.

SEC. 2732. The county is responsible for providing and keeping passable and in good repair bridges on all public highways, and the supervisors may appoint, semi-annually, a special meeting, at which the road overseers, on days set apart for their respective districts, must be present; and at such special meetings, so appointed, the supervisors must hear highway and bridge reports and complaints from officers and citizens; after which such orders must be made and such action had regarding the same as the public welfare demands. [*Amendment, approved April 16, 1880; Amendments 1880, 75 (Ban. ed. 365); took effect from passage; repealed conflicting act in counties of the second class.*]

2743. Encroachments on highways.

• SEC. 2743. If any highway duly laid out or erected is encroached upon by fences, buildings, or otherwise, the road overseer of the district may, orally or in writing, require the encroachment to be removed from the highway. [*Amendment approved April 16, 1880; Amendments 1880, 75 (Ban. ed. 365); took effect from passage; repealed conflicting acts in counties of the second class.*]

2746. Action as to when brought.

SEC. 2746. If the encroachment is denied, and the owner, occupant, or person controlling the matter or thing charged with being an encroachment, refuses either to remove or permit the removal thereof, the road overseer must commence in the proper court an action to abate the same as a nuisance; and if he recovers judgment, he may, in addition to having the same abated, recover ten dollars for every day such nuisance remained after notice, and also his costs in such action. [*Amendment, approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 365); took effect from passage; repealed conflicting acts in counties of the second class.*]

2747. Removal of encroachments.

SEC. 2747. If the encroachment is not denied, but is not removed for five days after the notice is complete, the road overseer may remove the same at the expense of the owner, occupant, or person controlling the same, and recover his costs and expenses, as also for each day the same remained after notice was complete the sum of ten dollars, in an action for that purpose. [*Amendment, approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 365); took effect from passage; repealed conflicting acts in counties of the second class.*]

2754. Notices, etc., on bridges.

SEC. 2754. Road overseers may put up on bridges under their charge notices that there is "five dollars fine for riding or driving on this bridge faster than a walk." Whoever thereafter rides or drives faster than a walk on such bridge is liable to pay five dollars for each offense. [*Amendment, approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 365); took effect from passage; repealed conflicting acts in counties of the second class.*]

2755. Destroying trees.

SEC. 2755. Whoever digs up, cuts down, or otherwise injures or destroys any shade or ornamental tree, planted or standing on any highway, unless the same is deemed an obstruction by the road overseer, and removed under his direction, forfeits twenty-five dollars for each such tree. [*Amendment, approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage; repealed conflicting acts in counties of the second class.*]

2756. Application of penalties.

SEC. 2756. All penalties or forfeitures given in this chapter, and not other-

wise provided for, must be recovered by the road overseer of the respective road districts, and be applied on the highways in which they are collected. [*Amendment, approved April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage; repealed conflicting acts in counties of second class.*]

2757.

[Sec. 2757, relating to road laws in force at the adoption of the Code, was repealed by act of April 16, 1880; Amendments 1880, 76 (Ban. ed. 366); took effect from passage.]

[The act of April 16, 1880 (Amendments 1880, 67 [Ban. ed. 356]), from which most of the foregoing amendments to the road laws are taken, after repealing in express terms a number of sections as above indicated, contained the following additional repealing section:

SEC. 39. All acts and parts of acts in conflict with the provisions of this act are hereby repealed in all counties of the second class.]

2800. *County may purchase roads, how.*

SEC. 2800. At any time within five years from filing the certificate of completion of any road constructed under the provisions of this chapter, the county within which the road, or any portion thereof, is located, may purchase the same at a fair cash valuation, to be fixed by seven commissioners, all disinterested persons, three to be appointed by the board of supervisors of the county, three by the owner of the road, and the seventh by the judge of the superior court of the county, who must estimate the fair cash value of the road, and make report thereof, under oath, to the board of supervisors. If, within three months after filing the report, the appraised value thereof is tendered on behalf of the county to the owner of the road, or his authorized managing agent, in gold coin, the right of the owner to take tolls on the road is terminated, and the road becomes the property of the county. [*Amendment, approved April 3, 1880; Amendments 1880, 22 (Ban. ed. 111); took effect immediately.*]

2814. *Persons exempt from tolls.*

SEC. 2814. The following persons and none other are exempt from payment of toll on wagon, turnpike, or plank roads:

First—Persons going to or from any funeral and all funeral processions.

Second—Troops in actual service of the State or of the United States, and persons going to or from a military training, which, by law, they are required to attend.

Third—Persons going to or from the court-house in obedience to a subpoena in a criminal action.

Fourth—Persons living within one mile of any gate by the most usually traveled road may pass it at one half toll, when not engaged in the transportation of other or the property of others.

Fifth—Farmers living on their farms within one mile of any gate by the most usually traveled road, may pass free when going to or from their work on such farms.

Sixth—School children attending school within three miles of their parents' or boarding-house.

Seventh—The road overseer of the road district through which road passes, or the commissioners of highways for the purpose of inspecting the condition of the road. [*Amendment, approved March 12, 1880; Amendments 1880, 4 (Ban. ed. 28); took effect sixtieth day after passage.*]

2852. *Interested supervisor can not act.*

SEC. 2852. When a supervisor is interested in an application to erect, con-

struct, or take tolls, or alter tolls on a bridge or ferry, he shall not act in any of such matters. [*Amendment, approved April 3, 1880; Amendments 1880, 23 (Ban. ed. 112); took effect immediately.*]

2872. *Action of board of supervisors.*

SEC. 2872. If the board are of opinion that the public interests will be promoted thereby, it may, by the assent of a majority of all the members of the board, grant the application by an order entered in its minutes, and particularly describing the bridge. The applicant must cause a certified copy of the order, with a copy of the application, to be recorded in the office of the clerk of the county, before proceeding under it; provided, that the board of supervisors shall not have power to license bridges across the Sacramento or San Joaquin Rivers, the Suisun Bay, or Carquinez Straits, the Petaluma, Napa, or Sonoma Creeks, except at points above the head of navigation on said streams. [*Amendment, approved March 14, 1878; Amendments 1877-8, 52; took effect from passage.*]

WHARVES, CHUTES, AND PIERS.

2914. *Construction of wharves, chutes, or piers.*

SEC. 2914. The wharf, chute, or pier must not be of a greater width than seventy-five (75) feet, and may extend to navigable water; provided, that a wharf constructed upon any of the navigable rivers, straits, sloughs, and inlets in this State may extend along the shores for a distance not exceeding one thousand feet, but in no case shall any wharf, chute, or pier extend into the water so far as to obstruct the free navigation of the water on which the same is situated; provided, this act shall not apply to the water fronts of incorporated cities and towns. [*Amendment, approved April 16, 1880; Amendments 1880, 66 (Ban. ed. 338); took effect immediately.*]

PUBLIC HEALTH.

3008. *Powers of health officer.*

SEC. 3008. The health officer is the executive officer of the health department, and he may, in his discretion, cause the removal to a hospital of any and all persons, within the limits of the City and County of San Francisco, infected with variola. [*Amendment, approved March 9, 1878; Amendments 1877-8, 52; took effect from passage; repealed conflicting acts.*]

3009. *Board to appoint certain officers and employes.*

SEC. 3009. The board of health must appoint a quarantine officer, who shall be a physician in good standing, a secretary, one assistant secretary, six health inspectors, one market inspector, and one messenger, whose duties must be fixed by the board of health. They must also appoint one superintendent physician, one resident physician, one steward, one matron, one apothecary, two visiting physicians, two visiting surgeons, as officers of the city and county hospital in and for the City and County of San Francisco, one each of said visiting physicians and surgeons to be nominated by the faculty of the medical department of the university of California, and one each of said visiting physicians and surgeons to be nominated by the medical College of the Pacific. Said board may also appoint one engineer for the city and county hospital. They may also appoint one superintendent, one resident physician, one matron, and such other employes as are now authorized by law to be employed in and for the alms-house of said city and county. They shall also have power to appoint and prescribe the duties of one city physician and one assistant city phy-

sician, who shall be designated as police surgeons, and whose duty it shall be to make all autopsies required of them by the coroner of said city and county. And said board is also empowered to appoint such employes and such medical attendants as they may deem necessary in the health department, and in all the various institutions which are by law placed under their supervision; and the compensation of such employes and medical attendants shall be fixed by the board of health. The appointing power aforesaid is vested solely in said board of health, and said board shall have power to prescribe the duties of said appointees, and shall not remove the same without just cause. The heads of departments appointed by the board of health, to wit, the health officer, resident physician of city and county hospital, and superintendent of alms-house, shall not be removed except by a concurrence of four members of said board of health. [*Amendment, approved March 9, 1878; Amendments 1877-8, 52; took effect from passage; repealed conflicting acts.*]

3010. Salaries allowed to officers and employes of health department.

Sec. 3010. The following annual salaries are hereby allowed to the officers of the health department, and such other officers and employes as are mentioned in the preceding section, viz.: health officer, three thousand dollars; quarantine officer, eighteen hundred dollars; secretary, twenty-one hundred dollars; assistant secretary, twelve hundred dollars; health inspectors, twelve hundred dollars each; market inspector, twelve hundred dollars; messenger, nine hundred dollars; city physician, eighteen hundred dollars; assistant city physician, twelve hundred dollars; all of said salaries, together with the salaries of such other employes of the health department as may be appointed by the board of health, must be paid in equal monthly installments out of the general fund of the City and County of San Francisco, in the same manner as the salaries of the other officers of said city and county are paid. There shall be paid to the officers and employes of the city and county hospital and alms-house the following annual salaries, viz.: superintendent physician, twenty-four hundred dollars; resident physician, fifteen hundred dollars; steward, fifteen hundred dollars; matron, seven hundred and twenty dollars; one apothecary, twelve hundred dollars; visiting physicians and surgeons, twelve hundred dollars each; engineer, twelve hundred dollars; superintendent of alms-house, twenty-four hundred dollars; resident physician of alms-house, fifteen hundred dollars; matron of alms-house, seven hundred and twenty dollars; and all other medical attendants and employes of said institutions are to be paid such sums as may be authorized by law, and as provided in the preceding section; all to be paid in equal monthly installments out of the hospital and alms-house fund of said City and County of San Francisco; and the auditor of said city and county is hereby directed to audit the said demands, payable out of the funds aforesaid, upon the approval of the same by the said board of health, and also to audit all demands for salaries of medical attendants and employes appointed by the board of health in accordance with this chapter, for the amounts authorized to be paid, when the same shall have been approved by said board; and the treasurer of said city and county must pay said demands out of said funds. The clerk of the mayor of the City and County of San Francisco shall not receive any compensation as clerk of the board of health. [*Amendment, approved March 9, 1878; Amendments 1877-8, 53; took effect from passage; repealed conflicting acts.*]

3013. Shipmasters to report infected vessels.

Sec. 3013. Shipmasters bringing vessels into the Harbor of San Francisco,

and masters, owners, or consignees having vessels in the harbor which have on board any cases of Asiatic cholera, small-pox, yellow, typhus, or ship fever, must report the same, in writing, to the quarantine officer before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they, or either of them, become aware of the existence of either of the diseases on board of their vessels. [*Amendment, approved March 9, 1878; Amendments 1877-8, 54; took effect from passage; repealed conflicting acts.*]

3014. Passengers and freight not to be landed without permit.

SEC. 3014. No captain or other officer in command of any vessel sailing under a register, arriving at the Port of San Francisco, nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any freight, passengers, or other persons from such vessel until he has reported to the quarantine officer, presented his bill of health, and received a permit from that officer to land freight, passengers, or other persons. [*Amendment, approved March 9, 1878; Amendments 1877-8, 54; took effect from passage; repealed conflicting acts.*]

3015. Duties of pilots.

SEC. 3015. Every pilot who conducts into the Port of San Francisco any vessel subject to quarantine or examination by the quarantine officer, must:

One—Bring the vessel no nearer the city than is allowed by law.

Two—Prevent any person from leaving, and any communication being made with the vessel under his charge, until the quarantine officer has boarded her and given the necessary orders and directions.

Three—Be vigilant in preventing any violation of the quarantine laws, and report, without delay, all such violations that come to his knowledge to the quarantine officer.

Four—Present the master of the vessel with a printed copy of the quarantine laws, unless he has one.

Five—If the vessel is subject to quarantine, by reason of infection, place at the mast-head a small yellow flag. [*Amendment, approved March 9, 1878; Amendments 1877-8, 54; took effect from passage; repealed conflicting acts.*]

3016. Penalty for neglect of masters of vessels to comply with sanitary regulations.

SEC. 3016. Every master of a vessel subject to quarantine or visitation by the quarantine officer, arriving in the Port of San Francisco, who refuses or neglects either:

One—To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,

Two—To submit his vessel, cargo, and passengers to the quarantine officer, and furnish all necessary information to enable that officer to determine what quarantine or other regulations they ought respectively to be subject; or,

Three—To report all cases of disease and of deaths occurring on his vessel, and to comply with all the sanitary regulations of the bay and harbor—
Is liable in the sum of five hundred dollars for every such neglect or refusal. [*Amendment, approved March 9, 1878; Amendments 1877-8, 55; took effect from passage; repealed conflicting acts.*]

3017. Vessels from infected ports subject to quarantine.

SEC. 3017. All vessels arriving off the Port of San Francisco from ports which have been legally declared infected ports, and all vessels arriving from ports

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where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have unusually foul or offensive holds, are subject to quarantine, and must be, by the master, owner, pilot, or consignee, reported to the quarantine officer without delay. No such vessel must cross a right line drawn from Meiggs' Wharf to Alcatraz Island until the quarantine officer has boarded her and given the order required by law. [*Amendment, approved March 9, 1878; Amendments 1877-8, 55; took effect from passage; repealed conflicting acts.*]

3018. *Examination and inspection of infected vessels.*

SEC. 3018. The quarantine officer must board every vessel, subject to quarantine or visitation by him, immediately on her arrival, make such examination and inspection of vessel, books, papers, or cargo, or of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine. [*Amendment, approved March 9, 1878; Amendments 1877-8, 55; took effect from passage; repealed conflicting acts.*]

3019. *Passengers not to be landed without permit.*

SEC. 3019. No captain or other officer in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden, having passengers on board, nor any owner, consignee, agent, or other person having charge of such vessel or vessels, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land or permit to be landed, any passenger from the vessel until he has presented his bill of health to the quarantine officer and received a permit from that officer to land such passenger, except in such cases as the quarantine officer deems it safe to give the permit before seeing the bill of health. [*Amendment, approved March 9, 1878; Amendments 1877-8, 55; took effect from passage; repealed conflicting acts.*]

3020. *Fees of health officer.*

SEC. 3020. The following fees may be collected by the quarantine officer: For giving a permit to land freight or passengers, or both, from any sailing vessel of less than five hundred tons burden, from any port out of this State, two dollars and fifty cents; over five hundred and under one thousand tons burden, five dollars; each additional one thousand tons burden or fraction thereof, an additional two dollars and fifty cents; for steam vessels, propelled in whole or in part by steam, of one thousand tons burden, or less, five dollars, and two dollars and fifty cents for each additional one thousand tons burden or fraction thereof; but vessels not propelled in whole or in part by steam, sailing to and from any port or ports of the Pacific States, of the United States, or Territories, and whaling vessels, entering the Harbor of San Francisco, are excepted from the provisions of this section. [*Amendment, approved March 9, 1878; Amendments 1877-8, 56; took effect from passage; repealed conflicting acts.*]

3024. *Returns of births, deaths, etc.*

SEC. 3024. Physicians and midwives must, on or before the fourth day of each month, make a return to the health officer of all births, deaths, and the number of still-born children occurring in their practice during the preceding month. In the absence of such attendants, the parent must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted, and upon blanks furnished by the board of health.

[*New Section, approved March 9, 1878; Amendments 1877-8, 56; took effect from passage; repealed conflicting acts.*]

3025. *No bodies to be buried without permit.*

SEC 3025. No person shall deposit in any cemetery, or inter in the City and County of San Francisco, any human body without first having obtained and filed with the health officer a certificate, signed by a physician or midwife, or a coroner, setting forth as near as possible, the name, age, color, sex, place of birth, occupation, date, locality, and the cause of death of the deceased, and obtain from such health officer a permit; nor shall any human body be removed or disinterred without the permit of the health officer, or by order of the coroner. Physicians, when deaths occur in their practice, must give the certificate herein mentioned. Hereafter it shall be the duty of the assistant city physician, or police surgeons, to perform all autopsies which may be required in the coroner's office of the City and County of San Francisco, all such autopsies being made without charge to the city. It shall be the duty of the health officer to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that time he shall cause the body to be placed in a vault or niche constructed of brick, stone, or iron, and hermetically sealed. It shall also be his duty to require all persons having in charge the digging of graves and burial of the dead to see that the body of no human being who had reached ten years of age shall be interred in a grave less than six feet deep, or if under the age of ten years the grave to be not less [than?] five feet deep. [*Amendment, approved March 9, 1878; Amendments 1877-8, 56; took effect from passage; repealed conflicting acts.*]

3026. *Return of interments to be made.*

SEC. 3026. Superintendents of cemeteries, within the boundaries of the City and County of San Francisco, must return to the health officer, on each Monday, the names of all persons interred or deposited within their respective cemeteries for the preceding week. [*Amendment, approved March 9, 1878; Amendments 1877-8, 57; took effect from passage; repealed conflicting acts.*]

3028. *Nuisances on premises of non-residents; how abated.*

SEC. 3028. Whenever a nuisance shall exist on the property of any non-resident, or any property the owner or owners of which can not be found by either health inspector, after diligent search, or on the property of any owner or owners, upon whom due notice may have been served, and who shall, for three days, refuse or neglect to abate the same, or on any city property, it shall be the duty of the board of health to cause the said nuisance to be at once removed or abated, and to draw upon the general fund for such sums as may be required for its removal or abatement, not to exceed two hundred dollars; provided, that whenever a larger expenditure is found necessary to be made for the removal or suppression of any nuisance, the board of supervisors of said city and county shall, upon the written application of the board of health, by ordinance, appropriate, allow, and ordered paid out of the general fund, such sum or sums as may be necessary for that purpose, and the auditor shall audit, and the treasurer shall pay all appropriations of money made in pursuance of this section, in the same manner as is now provided by law for auditing and paying demands upon the treasury; said sum or sums so paid shall become a lien on the property from which said nuisance has been removed or abated in pursuance of this section, and may be recovered by an action against such property. And it shall be the duty of the city and county attorney to foreclose

all such liens in the proper court, in the name of and for the benefit of said city and county, and when the property is sold enough of the proceeds shall be paid into the city and county treasury to satisfy the lien and costs, and the overplus, if any there be, shall be paid to the owner of the property, if he be known, and if not, then into the court for his use when ascertained. The board of health is hereby vested with power to act upon, define, determine, and adjudge what shall constitute a nuisance in said city and county, and to require the same to be abated in a summary manner. Any person who maintains, permits, or allows a nuisance to exist upon his or her property or premises, after the same has been determined by said board to be a nuisance, and after notice to remove the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and each day of such existence, after notice, shall be deemed a separate and distinct offense, and it is the duty of the health officer to prosecute all persons guilty of violating this law by continuous prosecutions until the same is abated and removed. [*Amendment, approved March 9, 1878; Amendments 1877-8, 57; took effect from passage; repealed conflicting acts.*]

3031. Officers empowered to administer oaths.

SEC. 3031. Any member of the board of health, health officer, or quarantine officer, or secretary, or assistant secretary of the health department, is empowered to administer oaths on business connected with that department. [*Amendment, approved March 9, 1878; Amendments 1877-8, 58; took effect from passage; repealed conflicting acts.*]

3033. Vacation of infected and dangerous houses.

SEC. 3033. Whenever it shall be certified to the board of health, by the health officer, that any building, or part thereof, is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, or by reason of its want of repair has become dangerous to life, said board may issue an order, and cause the same to be affixed conspicuously on the building, or part thereof, and to be personally served upon the owner, agent, or lessee, if the same can be found in this State, requiring all persons therein to vacate such building, for the reasons to be stated therein as aforesaid. Such building, or part thereof, shall, within ten days thereafter, be vacated, or within such shorter time, not less than twenty-four hours, as in said notice may be specified; but said board, if it shall become satisfied that the danger from said house, or part thereof, has ceased to exist, may revoke said order, and it shall thenceforward become inoperative. [*New Section, approved March 9, 1878; Amendments 1877-8, 58; took effect from passage; repealed conflicting acts.*]

3034. Physicians to report certain cases immediately—Households.

SEC. 3034. *One*—Every physician in the city and county shall report to the health officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, diphtheria, or scarletina, immediately thereafter, and report to the same officer every case of death from such disease, immediately after it shall have occurred.

Two—Every household in said city and county shall forthwith report, in writing, to the health officer, the name of every person boarding or an inmate at his or her house, whom he or she shall have reason to believe sick of cholera or small-pox, and any deaths occurring at his or her house from such disease. [*New Section, approved March 9, 1878; Amendments 1877-8, 58; took effect from passage; repealed conflicting acts.*]

3035. Board of health to have charge of city cemetery.

SEC. 3035. The board of health shall have entire charge of the city cemetery, and shall employ a superintendent, at a salary of seventy-five dollars per month, the same to be paid as the salaries of other employes are paid. [*New Section, approved March 9, 1878; Amendments 1877-8, 59; took effect from passage; repealed conflicting acts.*]

3061. Board of health to be established in incorporated cities and towns.

SEC. 3061. It shall be the duty of the board of trustees, council, or other corresponding board, of every incorporated town and city of this State, to establish, by ordinance, a board of health for such town or city, to consist of five persons, one at least of whom shall be a practicing physician and a graduate of some reputable school of medicine, and one, if practicable, a civil engineer. The members of the board shall hold their offices at the pleasure of the appointing power. Every local board of health established in this State must:

First—Supervise all matters pertaining to the sanitary condition of their town or city, and make such rules and regulations relative thereto as are necessary and proper, and not contrary to law.

Second—Report to the secretary of the State board of health, at Sacramento, at such times as the State board of health may require:

a. The sanitary condition of their locality.

b. The number of deaths, with the cause of each, as near as can be ascertained within their jurisdiction, during the preceding month.

c. The presence of epidemic or other dangerous, contagious, or infectious disease, and such other matters, within their knowledge or jurisdiction, as the State board may require.

The trustees, council, or other legislative board, by whatever name known, of any incorporated city or town of this State may, by ordinance, adopt any portion of article III and IV of this chapter, or either of them, for some definite period of time, as may seem proper for the regulation of sanitary matters within their town or city. [*Amendment, approved March 19, 1878; Amendments 1877-8, 59; took effect immediately.*]

[The act of March 19, 1878, from which the foregoing amendment is taken, contained the following additional section:

SEC. 2. This act shall not extend to any incorporated city or town, or city and county, for which health regulations and [are?] provided by special statutes.]

3074. Registry of marriages.

SEC. 3074. All persons who perform the marriage ceremony must keep a registry of the time of each marriage so celebrated, the residence, the names in full, the place of birth, the age of each party, and whether either party has ever been before married. [*Amendment, approved March 16, 1878; Amendments 1877-8, 60; took effect immediately.*]

3077. Register of births and deaths to be filed with recorder.

SEC. 3077. All persons registering marriages, births, or deaths, must quarterly file with the county recorder a certified copy of their register. All such certificates must specify, as near as may be ascertained, the name in full, age, occupation, term of residence in the city or county, birth place, condition, whether single or married, widow or widower, sex, race, color, last place of residence, and cause of death of all decedents. [*Amendment, approved March 16, 1878; Amendments 1877-8, 60; took effect immediately.*]

3079. Duties of recorder.

SEC. 3079. The recorder must keep separate registers, to be known as the

"Register of Marriages," the "Register of Births," and the "Register of Deaths," in which the marriages, births, and deaths certified to him must be numbered in the order in which they are reported to him. There must be stated in each register, in separate columns, properly headed, the various facts contained in the certificates, and the name and official or clerical position of the person making the report. The recorder must carefully examine each report, and register the same marriage, birth, or death but once, although it may be reported by different persons. [*Amendment, approved March 16, 1878; Amendments 1877-8, 60; took effect immediately.*]

3081. *Fees.*

SEC. 3081. County recorders, in those counties where their compensation is by fees, shall be allowed by the board of supervisors a fee of not exceed ten cents for each name reported, to be paid out of the general fund of the county; and in those counties where their compensation is by a fixed salary the duties in this chapter provided shall be performed without compensation other than such salary. [*Amendment, approved March 16, 1878; Amendments 1877-8, 60; took effect immediately.*]

3083. *Printing and distribution of blank forms of register.*

SEC. 3083. The secretary of the State board of health must prepare blank forms of said registers for the State printer, who must print as many copies as the said secretary shall direct, and deliver the same to the secretary of State, who shall forward the same, from time to time, and in such numbers as shall be directed by the secretary first mentioned to the county recorders of the several counties, who must carefully keep and distribute the same to the persons in the county who are required to keep the registers and make the reports provided in this chapter. [*New section, approved March 16, 1878; Amendments 1877-8, 61; took effect immediately.*]

AUCTIONS.

3285. *Bond, sureties, approval, and filing.*

SEC. 3285. The bond must be conditioned to be paid to the people of the State of California, with one or more sureties, in the sum of five thousand dollars, and approved by the judge of the superior court of the county in which the auctioneer proposes to do business, and must be filed in the office of the county clerk of the county. [*Amendment, approved April 3, 1880; Amendments 1880, 23 (Ban. ed. 112); took effect immediately.*]

FIRES AND FIREMEN.

3335. *Fire companies; how organized.*

SEC. 3335. Fire companies in incorporated cities and towns are formed and organized under special laws, or under authority conferred upon the city or town government. Those in incorporated towns or villages are organized by filing with the recorder of the county in which they are located, a certificate in writing, signed by the foreman or presiding officer and secretary, setting forth the date of the organization, name, officers, and roll of active and honorary members, which certificate and filing must be renewed every six months. There shall not be allowed to any such cities, towns, or villages more than one company for each one thousand inhabitants, but one company shall be allowed in any city, town, or village where the population is less than one thousand. There shall not be allowed to any engine company more than sixty-five certif-

cate members, to any hook and ladder company more than sixty-five certificate members, to any hose company more than twenty-five certificate members. [*Amendment, approved April 1, 1878; Amendments 1877-8, 61; took effect sixtieth day after passage.*]

3337. Firemen exempt from what.

Sec. 3337. The officers and members of unpaid fire companies regularly organized, and exempt firemen, are entitled to the following privileges and exemptions, viz.: Exemption from payment of poll tax, road tax, and head tax of every description; exemption from jury duty; exemption from military duty, except in case of war, invasion, or insurrection. [*Amendment, approved April 1, 1878; Amendments 1877-8, 62; took effect sixtieth day after passage.*]

LICENSES.

3359.

An Act to prohibit the issuance of licenses to aliens not eligible to become electors of the State of California.

Approved April 12, 1880; 1880, 39 (Ban. ed. 192).

Licenses prohibited to aliens not eligible to become electors.

SECTION 1. No license to transact any business or occupation shall be granted or issued by the State, or any county, or city, or city and county, or town, or any municipal corporation, to any alien not eligible to become an elector of this State.

Misdemeanor.

Sec. 2. A violation of the provisions of section one of this act shall be deemed a misdemeanor, and be punished accordingly.

3387.

In relation to the collection of licenses in Alameda County.

Approved March 14, 1878; 1877-8, 255.

[This act made it the duty of constables to enforce the collection of licenses in their respective townships, etc.]

An Act concerning licenses in the County of San Benito.

Approved March 16, 1878; 1877-8, 272.

[This act provided a new system of licenses for the county named, and repealed conflicting acts.]

An Act to facilitate and equalize the collection of licenses in the City and County of San Francisco.

Approved March 23, 1878; 1877-8, 442.

[This act provided a scale of licenses for brokers, bankers, merchants, retail dealers, auctioneers, livery stable keepers, and theaters in the city and county of San Francisco, and repealed conflicting acts.]

PUBLIC LANDS.

3415. Action to determine conflict.

Sec. 3415. After such order is made either party may bring an action in the superior court of the county in which the land in question is situated, to determine the conflict, and the production of a certified copy of the entry, made by either the surveyor general or the register, gives the court full and complete jurisdiction to hear and determine the action. [*Amendment, approved April 28, 1880; Amendments 1880, 108 (Ban. ed. 543); took effect immediately.*]

3429.

An Act for the relief of purchasers of State lands.
Approved March 27, 1872; 1871-2, 587.

[Section 1 of this act has been amended as follows:]

Title to lands vested in applicant; when.

SECTION 1. When application has been made to purchase lands from this State, and payment made to the treasurer of any county of this State, in whole or in part, and a certificate of purchase, or a patent, has been issued to the applicant, the title of the State to said lands is hereby vested in said applicant, or his assigns, upon his making full payment therefor; provided, that no other application has been made for the purchase of the same lands prior to the issuance of said certificate of purchase; provided further, that this act shall not apply to school lands, except to the amount of three hundred and twenty acres to any one purchaser, nor shall it be construed to remedy any defect in any application, or the issuing of any certificate other than that of payment in the wrong county, nor otherwise to conflict with or limit the provisions of the act hereby amended. [*Amendment, approved April 1, 1878; 1877-8, 914; took effect from approval.*]

3440. Swamp lands, etc., price and manner of payment.

Sec. 3440. The swamp and overflowed, salt marsh, and tide lands belonging to the State, must be sold at the rate of one dollar (\$1 00) per acre, in gold coin, payable, twenty per cent. of the principal within fifty days from the date of the approval of the survey by the surveyor-general; and the balance, bearing interest at the rate of seven per cent. per annum, payable in advance, is due and payable one year after the passage of any act of the legislature requiring such payment, or before, if desired by the purchasers. Bonds or warrants of districts having an outstanding indebtedness are receivable in payment for lands in such districts at par. [*Amendment, approved April 15, 1880; Amendments 1880, 58 (Ban. ed. 236); took effect on January 1, 1881.*]

3466. Delinquent assessments, how collected.

Sec. 3466. If, at the end of thirty days, or of the longer time fixed by the trustees, all of the assignments have not been paid, the treasurer must return the list to the board of trustees, who must commence actions for the collection of such delinquent assessments, with interest thereon from the time the list was returned to him, and costs, and for the enforcement of the lien on the land assessed, in the superior court of the county in which the same is situated, against the person to whom the same is assessed, and if assessed to "unknown" owners, then against the real owners, giving a full description by legal subdivisions or definite boundaries, and all persons having or claiming any interest therein by fictitious names. Service of complaint and summons in such actions may be made either in the manner prescribed by the Code of Civil Procedure, or if the owner is unknown, or can not be found, by posting a copy of the summons at the court-house door, and publishing the same once a week, for four successive weeks, in a newspaper published in the county; and such posting and publication is equivalent to personal service on all persons having or claiming any right, title, or interest in the land assessed to unknown owners, whether named as a party in such action or not. Proof of such posting and publication must be made by the certificate of the sheriff, or affidavit of the party making the service. In case the service be made by posting and publication, the defendant, or any person claiming any interest in the land assessed, may appear and answer the complaint within forty days after the expiration of the four weeks of

posting and publication. Assessments on several tracts may be included in the same action, if listed to the same person. In such action, the court may decree and adjudge a lien against each tract for the amount assessed against the same, and may order them to be sold on execution or decree, as in other cases of sale of real estate. The judgment or decree must direct that the sale be made for gold and silver coin of the United States. The board of trustees must pay the moneys collected to the county treasurer, who must place the same to the credit of the district. [*Amendment, approved April 28, 1880; Amendments 1880, 108 (Ban. ed. 543); took effect immediately.*]

3481. *Owner of unreclaimed lands may have lands set off in separate districts.*

SEC. 3481. If the owners of lands representing more than two-thirds of any body of lands within any reclamation or swamp land district, and in which the lands have not been reclaimed, desire to have the said body of lands set off from such district, they must, in addition to the petition required by section three thousand four hundred and forty-six, show to the board of supervisors that the said body of lands is capable of an independent reclamation. [*Amendment, approved April 15, 1880; Amendments 1880, 61 (Ban. ed. 268), took effect from passage; repealed inconsistent acts.*]

3489. *Manner of reorganizing swamp land, levee, and reclamation district.*

SEC. 3489. Swamp land, levee, and reclamation districts formed, organized, or erected into districts under special or general laws heretofore or now in force, may reorganize and consolidate in the manner following: Whenever the owners of a majority of acres of land in each of two or more swamp land, levee, or reclamation districts, shall desire to consolidate and reorganize, they may do so by filing a notice with the county recorder of the county in which the greatest portion of the land of the districts is situated, setting forth that they desire to consolidate and reorganize. The notice must give the exterior boundaries of the said districts, the name and number of each of them, the number of acres of land that each contains, and must be signed by the persons owning the majority of acres of land in each district, and shall designate the number of acres owned by each signer in the district in which the same is situated. The county recorder shall record and [said?] notice in a book kept for the purpose of recording papers in relation to swamp land and levee districts. He shall make a certified copy of said notice, and forward the same to the State land register, who shall designate a number for the reorganized district, the same as provided for in original organizations; after which time the district shall be known as Reclamation District Number —, and shall be under the operation and governed by the general reclamation laws of the State, as provided in "Title Eight, Chapter One," of the Political Code, and the acts amendatory thereof; and all proceedings thereafter shall be the same as though said district was organized upon an original petition and granted by the board of supervisors; provided, however, that such consolidation and reorganization shall in no manner invalidate the indebtedness of the original districts; and all the laws, rules, and regulations for the assessing, levying, and collecting taxes or assessments in said district shall remain and be in full force, and all levies, assessments, and collections required for the payment of the then outstanding indebtedness in said districts, shall be the same as though they had not consolidated and reorganized until such indebtedness shall be paid and liquidated. The owners of a majority of acres of land in a compact form, capable of being embraced in a swamp land or reclamation district contiguous thereto, and not a part of another district, may, by consent of

the trustees of such district, have such land embraced within such district, by filing a notice with the county recorder of the county in which such district is organized; the notice must give the exterior boundaries of said land, the number of acres of land therein, as near as may be, and must be signed by the persons owning the majority of acres of land therein; and there shall be attached thereto or indorsed thereon a written consent of the trustees of said district that said land be embraced therein. Said notice shall be filed with the county recorder of the county aforesaid, and recorded by him in a book kept for that purpose. From the time of filing of such notice, said land shall become and be held as a part of such district; provided, that the reorganization and consolidation of any two or more districts under the provisions of this act shall not be so construed as to legalize the original organization of any said districts reorganized and consolidated under this act; nor shall any indebtedness or any act of any of said districts, or the officers thereof, prior to the act of reorganization and consolidation, be legalized by this act; provided further, that no land not included in some of the original districts shall be included in the reorganization and consolidation without the consent of the owner. Nor shall any land purchased of the United States government be included in the reorganization and consolidation without the consent of the owner thereof, although the said government land may have been included in some of the original districts. [*Amendment, approved March 30, 1878; Amendments 1877-8, 62; took effect sixtieth day after passage.*]

3490. Injuries to levees.

SEC. 3490. Any person who shall cut, injure, or destroy any levee or other works of reclamation in any district, is responsible for all damages which may be occasioned thereby to such levee works; and an action therefor must be brought in the superior court of the county, or either of the counties in which such levee or works are situated, in the names of the trustees of the district. If there be no trustees, then the action may be brought in the name of any land owner in the district. The amount recovered in such action must be paid to the treasurer of the county, who must place the same to the credit of the district. [*Amendment, approved April 3, 1880; Amendments 1880, 23 (Ban. ed. 112); took effect immediately.*]

3491. Election of trustees of reclamation district.

SEC. 3491. In each reclamation district in this State, formed under this Code or any statute, there shall be an election every two years, held at such time and place, in or near the district, and after such notice as the board of supervisors shall direct; provided, that the notice shall be not less than one month, and at such election each bona fide owner of lands in the district shall be entitled to vote in person or by proxy, and shall have right to cast one vote for each one dollar's worth of real estate owned by him or her in the district, the value thereof to be determined from the next preceding assessment roll of the county, and a majority of the votes cast at such election shall elect. In all elections for trustees every owner of real estate shall have the right to cumulate his or her votes, and give one candidate as many votes as the number of trustees to be elected multiplied by the number of dollars' worth of real estate owned by him or her shall equal, or to distribute them on the same principle among as many candidates as he shall think fit. The board of supervisors to which the petition for the formation of the district was presented shall, upon the application of any land holder in the district, appoint a time

and place for holding such election, which election shall be held within sixty days from the time of such application; the place shall in all cases be in or near the district. Notice of such election shall be given by publication for not less than one month in a newspaper in each county in which any portion of the lands of the district are situate, if any newspaper is published therein, and if not, then in a newspaper having general circulation in such county. The trustees elected under the provisions of section three thousand four hundred and fifty-two shall hold office until their successors are elected under the provisions of this section. For the purposes of such election the board of supervisors of the county in which the whole or the larger part of the lands of any district are situate, must appoint from the land holders of the district one inspector and two judges of election, who shall constitute a board of election for such district; but in case the board of supervisors fail to appoint, or the persons appointed fail to attend at the time and place appointed for the election, the voters present at the time and place of opening the polls may appoint the board, or supply the place of an absent member thereof. Each member of the board must, upon entering upon his duties, be sworn to a faithful performance thereof by some officer authorized to administer oaths. The board of election must canvass the votes cast and issue certificates of election to the persons elected, and must place the ballots, when canvassed, in an envelope and forward the same, sealed, to the clerk of the board of supervisors. Any legally qualified voter may challenge any vote, and the board of election shall determine, by the oath of the parties or otherwise, as they may think proper, whether or not the person challenged is entitled to vote, and in case of challenge, either one of the board of election is hereby authorized to administer oaths. The polls shall be open from ten A. M. until four P. M. In case of vacancy in the board of trustees, the board of supervisors shall, by appointment, fill such vacancy. [*New Section, approved April 15, 1880; Amendments 1880, 60 (Ban. ed. 267); took effect from passage; repealed conflicting acts.*]

An Act providing for appeals from orders forming reclamation or swamp land district, setting off lands from such districts, or consolidating districts.

Approved April 16, 1880; 1880, 119 (Ban. ed. 385).

Appeals from orders of supervisors, forming reclamation districts, etc.

SECTION 1. Any person having an interest affected by an order of the board of supervisors of any county approving a petition for forming a reclamation or swamp land district, or in any manner creating a district, or setting off lands from a district, or consolidating districts, may appeal therefrom, within thirty days after said order is made, to the superior court of the county. Such appeal shall be taken and prosecuted in the manner prescribed by the rules of said superior court, and shall be tried anew. The judgment of the superior court shall be final. Each superior court in the State, in which there are any swamp land or reclamation districts, shall make rules regulating appeals in the cases hereinbefore mentioned.

SEC. 2. This act shall take effect and be in force from and after its passage.

3494. *School lands, price; payment, when to be made.*

SEC. 3494. The unsold portion of the five hundred thousand acres granted to the State for school purposes, the sixteenth and the thirty-sixth sections, and lands selected in lieu thereof, must be sold at the rate of one dollar and twenty-five cents (\$1.25) per acre, in gold coin, payable, twenty per cent. of the principal within fifty days from the date of the certificate of location issued to

the purchaser; the balance, bearing interest at the rate of seven per cent. per annum, in advance, is due and payable within one year after the passage of any act by the legislature requiring such payment, or before, if desired by the purchaser. [*Amendment, approved April 15, 1880; Amendments 1880, 58 (Ban. ed. 237); took effect January 1, 1881.*]

3495. *Affidavit on application to purchase sixteenth and thirty-sixth sections.*

SEC. 3495. Any person desiring to purchase any portion not less than the smallest legal subdivision of a sixteenth or a thirty-sixth section of any township, which has been surveyed by the United States, must make an affidavit that he is a citizen of the United States, or has filed his intention to become so, a resident of the State, of lawful age; that he desires to purchase such lands (describing the same by legal subdivisions) under the provisions of this title; that he has not entered any portion of any sixteenth or thirty-sixth section, which, together with that now sought to be purchased, exceeds three hundred and twenty acres; that he is an actual settler thereon; that there is no occupation of such lands adverse to any that he has; or if there is an adverse occupation, then the affidavit must show that the township has been sectionized three months, and that the adverse occupant (giving his name) has been in such occupation for more than sixty days since the plat was filed in the United States land office, and that he desires to purchase the same for his own use and benefit, and for the use and benefit of no other person or persons whomsoever, and that he has made no contract or agreement to sell the same. [*Amendment, approved April 28, 1880; Amendments 1880, 109 (Ban. ed. 554); took effect immediately.*]

3500. *Applications for other than sixteenth and thirty-sixth sections.*

SEC. 3500. Any person desiring to purchase any lands mentioned in section three thousand four hundred and ninety-four, except the sixteenth and thirty-sixth sections, must make an affidavit that he is a citizen of the United States (or has filed his intention of becoming so), a resident of the State, of lawful age; that he desires to purchase such lands (describing the same by legal subdivisions) under the provisions of this title, and that there is no valid claim to such land other than that of the applicant; that he is an actual settler thereon; that he has not entered any land in part satisfaction of the unsold portion of the five hundred thousand acre grant, or of the grant in lieu of the sixteenth or thirty-sixth sections which, together with that now sought to be purchased, exceeds three hundred and twenty acres. [*Amendment, approved April 28, 1880; Amendments 1880, 110 (Ban. ed. 545); took effect immediately.*]

3503.

An Act regulating the sale of mineral lands belonging to the State.

Approved March 28, 1874; 1878-4, 766.

[Sec. 6 of this act was amended in 1880 as follows:]

Contest as to character of land to be decided by superior court.

SEC. 3. When a contest shall arise as to the mineral character of the lands applied for, or from any other cause, the surveyor-general, or the register before whom the contest is made, must, within thirty days after the adverse application is filed, unless sooner referred, at the request of either claimant, make an order referring such contest to the superior court of the county within which the land is situated, and must enter such order in the proper book of his office and forward a copy thereof to the clerk of the court to which the reference is

made. Upon the filing of a copy of such order with the clerk of the court, either party may commence an action in said court to determine the conflict, and the court shall have full and complete jurisdiction to hear and determine the same. Unless an action shall be commenced within ninety days after the copy of the order of reference shall have been filed with the clerk of the court, the party making such demand, or the adverse claimant, if the case is referred without demand, shall be deemed to have waived and surrendered his or her right to purchase, and the surveyor-general or register shall proceed as though his or her application had not been made. [*Amendment, approved April 6, 1880; 1880, 26 (Ban. ed. 130); took effect from passage.*]

3536.

An Act concerning the selection and sale of university lands.

Approved March 13, 1874; 1873-4, 356.

[Section 1 of this act was amended in 1880 as follows:]

Land contests, how determined.

SECTION 1. In all cases when a contest shall arise between two or more persons concerning the right of such persons to purchase any portion of the one hundred and fifty thousand acres of land granted to the State for the use of an agricultural college, if either party shall demand a trial in the courts of the State, the land agent of the university, as the agent of the State, shall make an order, referring said contest to the superior court of the county in which the land involved is situated, and shall enter said order in the proper record book of his office; provided, that the party making such demand shall prosecute his contest to judgment within six months from the date of such demand, unless for cause satisfactory to the court. Either party may bring an action in the superior court of the county in which the land in question is situated, to determine such conflict; and the proffer of a certified copy of the entry, made by the said agent, shall give the said superior court full and complete jurisdiction to hear and determine said conflict; and upon the filing, with the said agent, of a copy of the final judgment of said court, he shall issue the certificate of purchase, or other evidence of title, in accordance with said final judgment. [*Amendment, approved April 9, 1880; 1880, 36 (Ban. ed. 186); took effect from passage.*]

3548. *Proceedings against delinquent purchasers.*

SEC. 3548. After the expiration of the fifty days, he must, in the name of the people of the State of California, commence actions in the superior court against all purchasers, or holders of certificates of purchase, who have not either paid the amount due, together with the cost of publication, or surrendered the title to the State, as provided in section three thousand five hundred and seventy, to obtain a judgment of foreclosure of the interest of the purchaser, or assignee of the purchaser in the land, and to annul the certificate of purchase. [*Amendment, approved April 28, 1880; Amendments 1880, 110 (Ban. ed. 545); took effect immediately.*]

3572. *If land sold is swamp and overflowed, auditor to draw warrant for sum specified.*

SEC. 3572. If the land sold was swamp and overflowed, the county auditor of the county in which the land is situated must, upon the surrender to him of the certificate mentioned in section three thousand five hundred and seventy-one, draw his warrant in favor of the person surrendering such certificate for

the amount therein specified, upon the treasurer of the county, who must pay the same out of the swamp and overflowed land fund of the district in which the land is situated. If the land sold was not swamp and overflowed, the controller of State, upon the surrender to him of such certificate, must draw his warrant in favor of the person surrendering the same, for the amount therein specified, upon the treasurer of State, who must pay the same out of the fund into which the purchase-money was paid. [*Amendment, approved March 30, 1878; Amendments 1877-8, 63; took effect immediately.*]

3574.

[The act of April 28, 1880 (Amendments 1880, 110 [Ban. ed. 545]), from which some of the foregoing amendments relating to public lands are taken, contained the following additional section, which took effect immediately on passage of the act:]

Applications to be retained sixty days.

SEC. 6. All applications, under whatsoever act, filed in the surveyor-general's office, must be retained sixty days before approval, and must be approved (when there is no conflict) by the surveyor-general, at the expiration of six months.

YOSEMITE VALLEY AND MARIPOSA BIG TREE GROVE.

3586.

An Act for the improvement and preservation of the Yosemite Valley and the Mariposa Big Tree Grove.

Approved April 1, 1878; 1877-8, 929.

[This act appropriated ten thousand dollars to construct bridges in the valley and for its improvement and preservation, and to construct a wagon road through and around the Grove.]

[The legislature of 1877-8, on March 20, 1878 (1877-8, 1077), adopted a concurrent resolution, requesting of the commissioners of Yosemite Valley that no future leases should be made in the valley of more than ten acres, and that when leases allowed fencing, the land leased and fenced should be used only for hotel and other purposes for the accommodation of visitors.]

An Act to provide for the management of the "Yosemite Valley and the Mariposa Big Tree Grove."

Approved April 16, 1880; 1880, 44 (Ban. ed. 205).

Commissioners—Terms—Vacancies.

SECTION 1. The governor of the State of California and the eight other commissioners appointed by him, in accordance with the act of congress entitled "An Act authorizing a grant to the State of California of the Yosemite Valley and the land embracing the Mariposa Big Tree Grove," approved June thirteenth, eighteen hundred and sixty-four, shall constitute a board to manage such premises, and the governor shall be ex officio member of the commission and president of the board. The term of office of said commissioners shall be four years; provided, that the eight first appointed shall so classify themselves that four shall go out of office in two years, and four in four years; and hereafter the appointments shall be made four each two years. Vacancies occurring in said commission from death, resignation, or other causes, shall be filled by appointment by the governor, to serve for the unexpired term only.

Title and powers.

SEC. 2. The commissioners shall be known as the "Commissioners to manage the Yosemite Valley and the Mariposa Big Tree Grove," and they and their successors shall have power to sue and be sued, and have full power to manage

and administer the grant made and the trust created by said act of congress, and to make and adopt all rules, regulations, and by-laws for their own government, and government, improvement, and preservation of such premises.

Principal place of business—Compensation.

SEC. 3. The principal place of business shall be in the said Yosemite Valley, in the county of Mariposa, and they shall meet at their office in said valley on the first day of June of each year, and may meet thereat oftener when a majority of the commissioners deem it expedient to do so. The said commissioners shall receive no compensation, other than necessary traveling expenses incurred in performing the duties of the board as prescribed in this act.

Meetings—Guardian—Salary.

SEC. 4. Such commissioners shall meet on the twentieth day of April, eighteen hundred and eighty, at the State capitol, for organization, and at such meeting they shall elect a suitable person to act as guardian of said Yosemite Valley and Mariposa Big Tree Grove, and shall not be one of said commissioners. Said guardian shall be at the office of the commissioners in the said county at all times, unless it shall be otherwise ordered by a majority of the commissioners, and shall hold his position during the pleasure of the commissioners electing him. Such guardian shall receive the sum of one hundred and twenty-five dollars per month, payable monthly, which salary shall be paid from the State treasury in the same manner as the salaries of State officers are paid. All moneys, rents, or profits derived from said grant and premises shall be expended in improvements in said valley by order of the commissioners, and under the supervision of said guardian.

Delivery of books, papers, etc.

SEC. 5. The said commission shall, immediately after organizing, demand from the commissioners now acting all the books, papers, and documents of any and every kind pertaining to the business of said board, and it shall be the duty of the commissioners now acting to immediately comply with said demand.

SEC. 6. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect from and after its passage.

REVENUE.

3607. Property subject to taxation.

SEC. 3607. All property in this State not exempt under the laws of the United States, excepting growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, is subject to taxation. [*Amendment, approved March 22, 1880 [Amendments 1880, 5 (Ban. ed. 34); took effect immediately.*

3617. Definition of terms.

SEC. 3617. Whenever the terms mentioned in this section are employed in this act, they are employed in the sense hereafter affixed to them.

First—The term "property" includes moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership.

Second—The term “real estate” includes:

1. The possession of, claim to, ownership of, or right to the possession of land.

2. All mines, minerals, and quarries, in and under the land, all timber belonging to individuals or corporations, growing or being on the lands of the United States, and all rights and privileges appertaining thereto.

3. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, when land is pledged for the payment and discharge thereof, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the land so pledged.

4. Improvements.

Third—The term “improvements” includes:

1. All buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land.

2. All fruit, nut-bearing, or ornamental trees and vines not of natural growth.

Fourth—The term “personal property” includes everything which is the subject of ownership not included within the meaning of the term “real estate.”

Fifth—The terms “value” and “full cash value” mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

Sixth—The term “growing crops” includes only those crops which require an annual planting or sowing, or an annual harvesting.

Seventh—The term “credits” means those solvent debts not secured by mortgage or trust deed, owing to the person, firm, corporation, or association assessed. The term “debts” means those unsecured liabilities owing by the person, firm, corporation, or association assessed to bona fide residents of this State, or firms, associations, or corporations doing business therein. [*Amendment, approved March 22, 1880; Amendments 1880, 5 (Ban. ed. 34); took effect immediately.*]

3627. *Property assessed at full cash value.*

SEC. 3627. All taxable property must be assessed at its full cash value. The proportionate value of the capital stock of corporations, associations, and joint stock companies having their principal place of business in this state, for the purposes of assessment and taxation, shall be its market value, deducting therefrom the value of all property assessed to them in this State, or elsewhere, of which such capital stock is the representative. Land and improvements thereon shall be separately assessed. Cultivated and uncultivated land of the same quality and similarly situated, shall be assessed at the same value. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad, and other quasi public corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situated. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied

upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and, to the extent of such payment, a full discharge thereof; provided, that if any such security or indebtedness shall be paid by any such debtor or debtors after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year; and every contract by which a debtor is obligated to pay any tax, or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void. [*Amendment, approved March 22, 1880; Amendments 1880, 6 (Ban. ed. 35); took effect immediately.*]

3328. *Assessments, how and by whom and when made.*

Sec. 3628. The franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this State, shall be assessed by the State board of equalization as hereinafter provided for. Other franchises, if granted by the authorities of a county, city, or city and county, must be assessed in the county, city, or city and county within which they were granted; if granted by any other authority they must be assessed in the county in which the corporations, firms, or persons owning or holding them have their principal place of business. All other taxable property shall be assessed in the county, city, city and county, town, township, or district in which it is situated. Land shall be assessed in parcels or subdivisions not exceeding six hundred and forty acres each, and tracts of land containing more than six hundred and forty acres, which have been sectionized by the United States government, shall be assessed by sections or fractions of sections. The assessor must, between the first Mondays of March and July in each year, ascertain the names of all taxable inhabitants, and all property in his county subject to taxation, except such as is required to be assessed by the State board of equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at twelve o'clock m. of the first Monday of March next preceding; but no mistake in the name of the owner or supposed owner of real property shall render the assessment thereof invalid. In assessing solvent credits not secured by mortgage or trust deed, a reduction therefrom shall be made of debts due to bona fide residents of this State. [*Amendment, approved March 22, 1880; Amendments 1880, 7 (Ban. ed. 36); took effect immediately.*]

3629. *Assessor to require a statement containing what.*

Sec. 3629. He must exact from each person a statement, under oath, setting forth specifically all the real and personal property owned by such person, or in his possession, or under his control, at twelve o'clock m. on the first Monday in March. Such statement shall be in writing, showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person;
2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member;
3. The capital stock and all property belonging to, claimed by, or in the pos-

session or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent.

4. The county in which such property is situated, or in which it is liable to taxation, and (if liable to taxation in the county in which the statement is made) also the city, town, township, school district, road district, or other revenue districts in which it is situated;

5. An exact description of all lands in parcels or subdivisions not exceeding six hundred and forty acres each, and the sections and fractional sections of all tracts of land containing more than six hundred and forty acres, which have been sectionized by the United States government, improvements and personal property, including all vessels, steamers, and other watercraft, and all taxable State, county, city, or other municipal or public bonds, and the taxable bonds of any person, firm, or corporation, and the certificates of shares of the capital stock of any corporation, association, or joint stock company not having its principal place of business in this State, and deposits of money, gold dust, or other valuables, and the names of the persons with whom such deposits are made, and the places in which they may be found, all mortgages, deeds of trust, contracts, and other obligations by which a debt is secured, and the property in the county affected thereby.

6. All solvent credits, unsecured by deed of trust, mortgage, or other lien on real or personal property, due or owing to such person, or any firm of which he is a member, or due or owing to any corporation of which he is president, secretary, cashier, or managing agent, deducting from the sum total of such credits such debts only, unsecured by trust deed, mortgage, or other lien on real or personal property, as may be owing by such person, firm, or corporation, to bona fide residents of this State. No debt shall be so deducted unless the statement shows the amount of such debt as stated, under oath, in aggregate; provided, in case of banks, the statement is not required to show the debt in detail, or to whom it is owing; but the assessor shall have the privilege of examining the books of such banks to verify said statement. Whenever one member of a firm, or one of the proper officers of a corporation, has made a statement showing the property of the firm or corporation, another member of the firm, or another officer, need not include such property in the statement made by him, but his statement must show the name of the person or officer who made the statement in which such property is included. [*Amendment, approved March 22, 1880; Amendments 1880, 7 (Ban. ed. 36); took effect immediately.*]

3630. *Supervisors to furnish blank forms of statement, etc.*

Sec. 3630. The board of supervisors must furnish the assessor with "blank forms" of the statements provided for in the preceding section, affixing thereto an affidavit, which must be substantially as follows: "I, — — —, do swear that I am a resident of the county of (naming it); that the above list contains a full and correct statement of all property subject to taxation which I, or any firm of which I am a member, or any corporation, association, or company of which I am president, cashier, secretary, or managing agent, owned, claimed, possessed, or controlled at twelve o'clock M. on the first Monday in March last, and which is not already assessed this year; and that I have not in any manner whatsoever transferred or disposed of any property, or placed any property out of said county, or my possession, for the purpose of avoiding any assessment upon the same, or of making this statement;

and that the debts therein stated as owing by me are owing to bona fide residents of this State, or to firms or corporations doing business in this State." The affidavit to the statement on behalf of a firm or corporation must state the principal place of business of the firm or corporation, and in other respects must conform, substantially, to the preceding form. [*Amendment, approved March 22, 1880; Amendments 1880, 8 (Ban. ed. 38); took effect immediately.*]

3634. Assessor, how to obtain description of property.

SEC. 3634. When the assessor has not received from the owner of a tract of land the statement required by section three thousand six hundred and twenty-nine, or when such statement does not sufficiently describe a tract of land to enable the assessor to assess the same as required by law, and the owner or his agent, or in case they can not be or are unknown, the person in possession thereof, neglects for ten days after demand by the assessor to furnish said assessor with such description, the assessor shall cite such owner, or agent, or person in possession, to appear before the superior court of the county wherein such land is situated, within five days after service of such citation, and the said superior court shall, upon the day named in such citation, to the exclusion of all other business, proceed to hear the return and answer of the said owner, or agent, or person in possession, to the said citation; and if the court shall find that the land has not been surveyed or divided into subdivisions of six hundred and forty acres, or less, so that each part or parcel may be described by metes and bounds, then the court shall, by order duly entered in open court, direct the county surveyor to make a survey, and define the boundaries and location of said land by parcels or subdivisions not exceeding six hundred and forty acres each, and deliver the same to the county assessor. The expense of making such survey and description by the county surveyor shall be a lien upon the land, and shall, when approved by the said superior court, be certified by said court to the tax collector of the county where the land is situated, and be added to the taxes upon said land, and be collected as other taxes are collected. [*Amendment, approved March 22, 1880; Amendments 1880, 9 (Ban. ed. 38); took effect immediately.*]

3640. Holders of stock in firm or corporation.

SEC. 3640. Each person, firm, or corporation owning or having in his or its possession any of the shares of the capital stock of any corporation, association, or joint stock company, shall be assessed therefor. If the corporation, association, or joint stock company has its principal place of business in this State, the assessable value of each share of its stock shall be ascertained by taking from the market value of its entire capital stock the value of all property assessed to it, and dividing the remainder by the entire number of shares into which its capital stock is divided. The owner or holder of capital stock in corporations, associations, and joint stock companies whose principal place of business is not within the State, must be individually assessed for such stock. Shareholders, in the statement required by section three thousand six hundred and twenty-nine of this Code, shall specify the number of shares of stock held by them, and the name of the corporation. The owner of shares of stock, to be entitled to the deduction provided for in this section, must produce to the assessor a certificate of the assessment of the property of the corporation, association, or joint stock company. [*Amendment, approved March 22, 1880; Amendments 1880, 9 (Ban. ed. 39); took effect immediately.*]

3643. Ferries, where tax collected.

SEC. 3643. Where ferries connect more than one county, the wharves, storehouses, and all stationary property belonging to or connected with such ferries, must be assessed and the taxes paid in the county where located. The value of the franchise and watercraft, and of toll bridges connecting more than one county, must be assessed in equal proportions in the counties connected by such ferries or toll bridges. [*Amendment, approved March 22, 1880; Amendments 1880, 9 (Ban. ed. 39); took effect immediately.*]

3650. Property, how listed.

SEC. 3650. The assessor must prepare an assessment book, with appropriate headings, alphabetically arranged, unless otherwise directed by the State board of equalization, in which must be listed all property within the county, and in which must be specified in separate columns, under the appropriate head:

1. The name of the person to whom the property is assessed.
2. Land, by township, range, section, or fractional section; and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres (not exceeding in each and every tract, six hundred and forty acres), locality, and the improvements thereon. When any tract of land is situate in two or more school, road, or other revenue districts of the county, the part in each township or district must be separately assessed, together with the improvements thereon.
3. City and town lots unimproved and similarly situated shall be assessed at the same value, naming the city or town, and the number of the lot and block, according to the system of numbering in such city or town, and improvements thereon.
4. All personal property—showing the number, kind, amount, and quality; but a failure to enumerate in detail such personal property does not invalidate the assessment.
5. The cash value of real estate other than city or town lots.
6. The cash value of improvements on such real estate.
7. The cash value of city and town lots.
8. The cash value of improvements on city and town lots.
9. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.
10. The cash value of all personal property, exclusive of money.
11. The amount of money.
12. The assessment of the franchise, roadway, roadbed, rails, and rolling stock of any railroad, as apportioned to his county by the State board of equalization; and, also, such other apportionments of such franchises, roadways, roadbeds, rails, and rolling stock as may be made by such board, and furnished to him for the purpose of taxation in any district in his county. Taxable improvements, owned by any person, firm, association, or corporation, located upon land exempt from taxation, shall, as to the manner of assessment, be assessed as other real estate upon the assessment roll. No value shall, however, be assessed against the exempt land; nor, under any circumstances, shall the land be charged with or become responsible for the assessment made against any taxable improvements located thereon.

13. The school, road, or any other revenue districts in which each piece of property assessed is situated.

14. The total value of all property.

15. When any property, except that owned by a railroad or other quasi public corporation, is subject to or affected by a mortgage, deed of trust, contract, or other obligation by which a debt is secured, he must enter, in the proper column, the value of such security, and deduct the same. In entering assessments containing solvent credits subject to deductions, as provided in section three thousand six hundred and twenty-eight of this Code, he must enter in the proper column the value of the debts entitled to exemption, and deduct the same. In making the deductions from the total value of property assessed, as above directed, he must enter the remainder in the column provided for the total value of all property for taxation. Where the capital stock of any corporation, association, or joint stock company is assessed, as provided in section three thousand six hundred and forty of this Code, the value of all property for deduction must be entered in the proper column, and he must deduct the same from the market value of said capital stock, and place the remainder in the column provided for the total value of all property for taxation. Each franchise must be entered on the assessment roll without combining the same with other property, or the valuation thereof.

16. The figure one (1), in separate columns, opposite the name of every person liable to pay a poll tax.

17. Such other things as the State board of equalization may require.

The State board of equalization may direct the book to be otherwise than alphabetically arranged in any county, or city and county, of this State. [*Amendment, approved March 22, 1880; Amendments 1880, 10 (Ban. ed. 39); took effect immediately.*]

3651. Form of assessment book.

SEC. 3651. The form of the assessment book shall be as directed by the State board of equalization, and in those counties, or cities and counties, for which said board does not prescribe a different form, it must be substantially as follows:

Assessment Book of the Property of _____ County, for the year 18—, assessed to the owner when known, and if not known, to whomever owns it.			Remarks.....	
			Poll tax.....	
			Total tax.....	..
			Total value of all property after equalizations by the State Board of Equalization.....	..
			Total value of all property for taxation.....	..
			Deductions to corporations or individual stockholders.....	..
			Deductions on account of debts due bona fide residents.....	..
			Deductions on account of mortgages, deeds of trust, etc.....	..
			Total value of all property.....	..
			Amount of money.....	..
			Value of personal property.....	..
			Value of improvements on real estate assessed to persons other than the owners of the real estate. Value of improvements thereon.....	..
			Value of city and town lots.....	..
			Value of improvements thereon.....	..
			Value of real estate other than city or town lots.....	..
School, road, or other district in which located.....				
Number of acres.....				
DESCRIPTION OF PROPERTY.	City or town lots.	Block.....		
		Lot.....		
		Fraction.....		
	Real estate other than city and town lots.	Range, E. or W.....		
		Township, N. or S.....		
		Section.....		
		Subdivision of section.....		
	Residence.....			
Taxpayers' names.....				
When tax paid.....				
			Personal property. (Here items may be enumerated in the space to column for number of acres.)	

[Amendment, approved March 22, 1880; Amendments 1880, 12 (Ban. ed. 41); took effect immediately.]

3652. Assessment book, when completed—Oath.

SEC. 3652. On or before the first Monday of July, in each year, the assessor must complete his assessment book. He and his deputies must take and subscribe an affidavit in the assessment book, to be substantially as follows: "I,

—, assessor of (or deputy assessor, as the case may be) — county, do swear that between the first Monday in March and the first Monday in July, eighteen hundred and —, I have made diligent inquiry and examination to ascertain all the property within the county (or within the subdivision thereof, assessed by me, as the case may be), subject to assessment by me, and that the same has been assessed on the assessment book, equally and uniformly, according to the best of my judgment, information, and belief, at its full cash value; and that I have faithfully complied with all the duties imposed on the assessor under the revenue laws; and that I have not imposed any unjust assessment through malice or ill-will, nor allowed any one to escape a just and equal assessment through favor or reward." But the failure to take or subscribe such an affidavit, or any affidavit, will not in any manner affect the validity of the assessment. [*Amendment, approved March 22, 1880; Amendments 1880, 13 (Ban. ed. 42); took effect immediately.*]

3663. Water ditches, toll roads, and telegraph lines, how assessed.

Sec. 3663. Water ditches constructed for mining, manufacturing or irrigation purposes, and wagon or turnpike toll roads, or telegraph lines, must be assessed the same as real estate by the assessor of the county, at a rate per mile for that portion of such property as lies within his county. [*Amendment, approved April 15, 1880; Amendments 1880, 58 (Ban. ed. 252); took effect immediately.*]

3664. State board of equalization to assess railroads, etc.

Sec. 3664. On or before the first Monday in May in each year, the State board of equalization shall assess the franchise, roadway, roadbed, rails, and rolling stock of railroads operated in more than one county. The president, secretary, cashier, or managing agent, or such other officer as the State board of equalization may designate, of any corporation operating any railway in more than one county in this State, shall furnish said board, on or before the first Monday of April, in each year, a statement, signed or sworn to by one of such officers, showing in detail, for the year ending on the first Monday in March in such year:

(a) The whole number of miles owned, operated, or leased in the State by such corporation making the return, and the value thereof per mile, with a detailed statement of all property of every kind located in the State.

(b) Also a detailed statement of the number and value thereof of engines, passenger, mail, express, baggage, freight, and other cars or property used in operating or repairing such railway in this State; and on railways which are part of lines extending beyond the limits of this State, the return shall show the actual amount of rolling stock in use on the corporation's line in the State during the year for which the return is made. The return shall show the amount of rolling stock, the annual gross earnings of the entire railway, and the proportionate annual gross earnings of the same in this State, as nearly as practicable, and all property designated hereafter in this section, and such other facts as the State board of equalization may, in writing, require.

If such officers fail to make such statement, said board of equalization shall proceed to assess the property of the corporations so failing; the valuation fixed by them shall be final and conclusive. The said property shall be assessed at its actual cash value. The assessment shall be made upon the entire railway within the State, and shall include the right of way, roadbed, track, bridges, culverts, and rolling stock. The depots, station grounds, shops, buildings,

and gravel beds, shall be assessed by the assessor of the county where situated, as other property. On or before the fifteenth day of May, in each year, said board shall transmit to the county assessor of each county through which any railway, operated in more than one county, may run, a statement showing the length of the main track of such railway within the county, and the assessed value per mile of the same, as fixed by a pro rata distribution per mile of the assessed value of the whole property named in this section. Said statement shall be entered on the assessment roll of the county. At the first meeting of the board of supervisors after such statement is received by the county assessor, they shall make, and cause to be entered in the proper record book, an order stating and declaring the length of the main track, and the assessed value of such railway lying in each city, town, township, school district, or lesser taxing district, in their county, through which such railway runs, as fixed by the State board of equalization, which shall constitute the taxable value of said property for taxable purposes in such city, town, township, school, road, or other district; and the clerk of the board of supervisors shall transmit a copy of each order or equalization to the city council, or trustees of incorporated cities or towns, the trustees of each school district, and the authorized authorities of other taxing districts through which such railway runs. The taxes on said property for State and county purposes, after collection by the county collector, shall be paid over to the county treasurer, as other taxes. All such railway property shall be taxable upon said assessment at the same rates, by the same officers, and for the same purposes as the property of individuals within such counties, cities, towns, townships, school districts, and lesser taxing districts. [*New Section, approved March 22, 1880; Amendments 1880, 13 (Ban. ed. 43); took effect immediately.*]

3665. Assessment of assessors to be basis of taxation.

SEC. 3665. The assessment made by the county assessor shall be the only basis of taxation for the county or any subdivision thereof (except in incorporated cities and towns; and may also be taken as such basis in incorporated cities and towns, when the proper authorities may so elect). All taxes upon townships, road, school, or other local districts, shall be collected in the same manner as county taxes. [*New Section, approved March 22, 1880; Amendments 1880, 14 (Ban. ed. 44); took effect immediately.*]

3673. Supervisors to equalize assessments.

SEC. 3673. The board has power, after giving notice in such manner as it may, by rule, prescribe, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said roll, and make the assessment conform to the true value of such property in money. [*Amendment, approved March 22, 1880; Amendments 1880, 15 (Ban. ed. 45); took effect immediately.*]

3678. County recorder to assist assessor.

SEC. 3678. To assist the assessor in the performance of his duties, the recorder must annually transmit to the assessor on or before the first Monday in April, a complete abstract of all mortgages, deeds of trust, contracts, and other obligations by which any debt is secured, remaining unsatisfied on the records of his office, not barred by the statute of limitation, at twelve o'clock meridian, on the first Monday in March of said year. Such abstract shall be written under appropriate headings to embrace all information requisite for the assessor, in a book or books to be furnished by the board of supervisors upon

the requisition of the assessor. Should any such list be found to contain any instrument relating to lands situated in more than one county, it shall be the duty of the assessor to transmit to the State board of equalization all information relating thereto; and it shall be the duty of the said board to attach an apportionment of valuation of such instrument to be assessed in each county, and the board shall transmit to the assessor of each county mentioned as affected in said instrument a statement of valuation of assessment to be levied against said instrument in each county. The valuation so set by said board shall be final, and the assessor shall accept said valuation, and charge said assessment upon said instrument accordingly. Should the said list contain any instrument mortgaging or pledging two or more subdivisions of land, or land assessed in two or more subdivisions, in the same county, township, district, or city, the assessor shall apportion the amount of assessment to be deducted from each subdivision on account of assessment against said instrument. Any assessment on a mortgage or deed of trust, which has been erroneously taxed to the mortgagee or party loaning the money, when the same has been paid or satisfied prior to the first Monday in March, shall be valid only as against the real estate from the assessment on which a deduction has been previously made. When partial payments have been made on a debt, secured by mortgage or deed of trust, the owner is authorized to make the proper deduction, listing only the balance due on the first Monday in March. When necessary, the board of supervisors of each county must provide for the payment of such additional clerical force as may be required to enable the county recorder to comply with this section. [*Amendment, approved March 22, 1880; Amendments 1880, 15 (Ban. ed. 45); took effect immediately.*]

3679. Supervisors to use records in equalizing assessments.

SEC. 3679. The board must use the abstract and all other information it may gain from the records of the county recorder or elsewhere, in equalizing the assessment of the property of the county, and may require the assessor to enter upon the assessment book any property which has not been assessed; and any assessment made as prescribed in this section has the same force and effect as if made by the assessor before the delivery of the assessment book to the clerk of the board. [*Amendment, approved March 22, 1880; Amendments 1880, 16 (Ban. ed. 46); took effect immediately.*]

[Sec. 3680, relating to preservation of evidence taken before the board, was repealed by act of March 22, 1880; Amendments 1880, 17 (Ban. ed. 47); took effect immediately.]

3692. Powers and duties.

SEC. 3692. The powers and duties of the State board of equalization are as follows:

1. To prescribe rules for its own government and for the transaction of its business;
2. To prescribe rules and regulations, not in conflict with the constitution and laws of the State, to govern supervisors when equalizing, and assessors when assessing;
3. To make out, prepare, and enforce the use of forms in relation to the assessment of property;
4. To hold regular meetings at the State capitol on the second Monday in each month, and such special meetings as the chairman may direct;
5. To annually assess the franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county in this State, at their

actual value, on the first Monday in March, at twelve o'clock *m.*, and to apportion such assessment to the counties, and cities and counties, in which such railroads are located, in proportion to the number of miles of railway laid in such counties, and cities and counties, in the manner provided for in section three thousand six hundred and sixty-four of said Code;

6. To equalize the assessment of each mortgage, deed of trust, contract, or other obligation by which a debt is secured, and which affects property situate in two or more counties, and to apportion the assessment thereof to each of said counties;

7. To transmit to the assessor of each county, or city and county, its apportionment of the assessments made by said board upon the franchises, roadways, roadbeds, rails, and rolling stock of railroads; and also its apportionment of the assessments made by such board upon mortgages, deeds of trust, contracts, and other obligations by which debts are secured, in the manner provided for in section three thousand six hundred and sixty-four of said Code;

8. To meet at the State capitol on the third Monday in August, and remain in session from day to day (Sundays excepted) until the third Monday in September;

9. At such meeting to equalize the valuation of the taxable property of the several counties in this State for the purpose of taxation; and to that end, under such rules of notice to the clerk of the board of supervisors of the county affected thereby as it may prescribe, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said roll, and make the assessment conform to the true value in money of the property assessed, and to fix the rate of State taxation, and to do the things provided in section three thousand six hundred and ninety-three of said Code;

10. To visit as a board, or by the individual members thereof, whenever deemed necessary, the several counties of the State, for the purpose of inspecting the property and learning the value thereof;

11. To call before it, or any member thereof, on such visit, any officers of the county, and to require them to produce any public records in their custody;

12. To issue subpoenas for the attendance of witnesses or the production of books before the board, or any member thereof; which subpoenas must be signed by a member of the board, and may be served by any person;

14. To appoint a clerk; prescribe and enforce his duties. The clerk shall hold his office during the pleasure of the board;

15. To report to the governor, annually, a statement showing:

First—The acreage of each county in the State that is assessed.

Second—The amount assessed per acre.

Third—The aggregate value of all town and city lots.

Fourth—The aggregate value of all real estate in the State.

Fifth—The kinds of personal property in each county, and the value of each kind.

Sixth—The aggregate value of all personal property in the State.

Seventh—Any information relative to the assessment of property and the collection of revenue.

Eighth—Such further suggestions as it shall deem proper.

16. To keep a record of all its proceedings. [*Amendment, approved April 3, 1880; Amendments 1880, 25 (Ban. ed. 117); took effect immediately.*]

3693. Correction of assessments.

SEC. 3693. When, after a general investigation by the board, the property is found to be assessed above or below its full cash value, the board may, without notice, so determine, and must add to or deduct from the valuation:

1. The real estate;
2. Improvements upon such real estate;
3. The personal property, except money, such per centum respectively as is sufficient to raise or reduce it to its full cash value. [*New Section, approved April 3, 1880; Amendments 1880, 26 (Ban. ed. 119); took effect immediately.*]

3695. Clerk to transmit statement of changes to county auditors.

SEC. 3695. When the equalization among the several counties is completed, the clerk of the board must transmit to each county auditor a statement of the changes made by the board in the assessment roll of the county, or in any assessment contained therein, and of the per centum to be added to or deducted from the valuation of such statement, which shall be *prima facie* evidence of the regularity of all proceedings of the board, resulting in the action which is the subject matter of the statement. [*New Section, approved April 3, 1880; Amendments 1880, 27 (Ban. ed. 119); took effect immediately.*]

3696. Board to notify supervisors of amount of tax to be levied.

SEC. 3696. Between the first and third Mondays in September of each year, the board must determine the rate of State tax to be levied and collected upon the assessed valuation of the property of the State, which, after allowing twelve per cent. for delinquencies in and costs of collection of taxes, must be sufficient to raise the specific amount of revenue directed to be raised by the legislature for State purposes. The board must immediately thereafter transmit to the board of supervisors and county auditor of each county a statement of such rate, and upon its receipt the clerk of said board and county auditor must each, in writing, notify the State board of equalization thereof. [*Amendment, approved March 28, 1878; Amendments 1877-8, 65; took effect immediately.*]

3700. Salary.

SEC. 3700. The annual salary of each member of the board, except the State controller, is three thousand dollars, and the annual salary of the clerk of the board is eighteen hundred dollars, and each of said officers shall devote his entire time to the service of the State in performing the duties and acquiring the information required by this act. [*New Section, approved April 3, 1880; Amendments 1880, 27 (Ban. ed. 119); took effect immediately.*]

3702. Expenses of board.

SEC. 3702. Each member of the board is entitled to repayment of his actual expenses incurred by him while traveling in the discharge of his duties, not to exceed annually one thousand dollars each, the amount thereof to be audited and allowed by the board of examiners, and the State controller is hereby authorized to draw his warrant for said amount, and the State treasurer is authorized to pay the same. Upon requisition of the board, the secretary of State must assign a room in the State capitol for the use of the same, where the board must keep its office and transact all business, except as in its nature must be transacted elsewhere. The secretary of State, upon requisition of the board, must furnish the board with furniture, fuel, lights, postage stamps, and stationery; and the superintendent of public printing, upon like requisition, must execute all printing that may be required by the board. [*Amendment, approved April 3, 1880; Amendments 1880, 27 (Ban. ed. 120); took effect immediately.*]

3713. Rate of taxation.

SEC. 3713. The State board of equalization must, for State purposes for the thirty-second fiscal year, fix such an ad valorem rate of taxation upon each one hundred dollars of taxable property of this State as will raise, for the thirty-second fiscal year:

First—For the general fund, one million seven hundred and fifty thousand dollars.

Second—For the school fund, one million four hundred thousand dollars.

Third—For the interest and sinking fund, three hundred and fifteen thousand dollars. [*Amendment, approved April 16, 1880; Amendments 1880, 65 (Ban. ed. 337); took effect immediately.*]

3714. Supervisors to regulate county rate of taxation.

SEC. 3714. The board of supervisors of each county must, on the first Monday of October, fix the rate of county taxes, designating the number of cents on each hundred dollars of property levied, for each fund, and must levy the State and county taxes upon the taxable property of the county; provided, that it shall not be lawful for any board of supervisors of any county in the State to levy, nor shall any tax greater than fifty cents on each one hundred dollars of property be levied and collected in any one year, to pay the bonded indebtedness, or judgment arising therefrom, of this State, or of any county or municipality in this State. [*Amendment, approved April 12, 1880; Amendments 1880, 50 (Ban. ed. 193); took effect immediately.*]

3717. Tax on personal property a lien on real.

SEC. 3717. Every tax due upon personal property is a lien upon the real property of the owner thereof, from and after twelve o'clock m. of the first Monday in March in each year. [*Amendment, approved March 22, 1880; Amendments 1880, 16 (Ban. ed. 46); took effect immediately.*]

3730. Auditor to follow directions of State board of equalization.

SEC. 3730. As soon as the auditor receives from the State board of equalization a statement of the changes made by the board in the assessment roll of the county, or in any assessment contained therein, he must make the corresponding changes in the assessment roll, by entering the same in a column provided with a proper heading in the assessment book, counting any fractional sum, when more than fifty cents, as one dollar, and omitting it when less than fifty cents, so that the value of any separate assessment shall contain no fraction of a dollar; but he shall, in all cases, disregard any action of the board of supervisors which is prohibited by section three thousand six hundred and thirty-three of this Code. [*Amendment, approved March 22, 1880; Amendments 1880, 16 (Ban. ed. 46); took effect immediately.*]

3731. Auditor to compute and enter taxes against property.

SEC. 3731. The auditor must then compute and enter in a separate money column in the assessment book, the respective sums in dollars and cents, rejecting the fractions of a cent, to be paid as a tax on the property therein enumerated, and foot up the column showing the total amount of such taxes, and the columns of total value of property in the county, as corrected under the direction of the State board of equalization. [*Amendment, approved April 3, 1880; Amendments 1880, 27 (Ban. ed. 120); took effect immediately.*]

3732. Delivery of "duplicate assessment book" to tax collector.

SEC. 3732. On or before the fourth Monday of October, he must deliver a copy of the corrected assessment book, to be styled "duplicate assessment

book," to the tax collector, with an affidavit attached thereto and by him subscribed, as follows: "I, —, Auditor of the County of —, do swear that I received the assessment book of the taxable property of the county from the clerk of the board of supervisors, with his affidavit thereto affixed, and that I have corrected it and made it conform to the requirements of the State board of equalization; that I have reckoned the respective sums due as taxes, and have added up the columns of valuations, taxes, and acreage, as required by law, and that the copy to which this affidavit is affixed is a full, true, and correct copy thereof, made in the manner prescribed by law." [*Amendment, approved April 3, 1880; Amendments 1880, 28 (Ban. ed. 120); took effect immediately.*]

3746. Tax collector to publish notice, specifying what.

SEC. 3746. Within ten days after the receipt of the "duplicate assessment book," the tax collector must publish a notice specifying:

1. That taxes will be delinquent on the last Monday in December next thereafter at six o'clock p. m., and that unless paid prior thereto five per cent. will be added to the amount thereof.

2. The time and place at which payment of taxes may be made. [*Amendment, approved April 16, 1880; Amendments 1880, 65 (Ban. ed. 327); took effect immediately.*]

3747. Taxes payable at collector's office in San Francisco and Los Angeles.

SEC. 3747. In the City and County of San Francisco, and in the County of Los Angeles, the notice must specify the office of the collector as the place where taxes may be paid. [*Amendment, approved March 14, 1878; Amendments 1877-8, 68; took effect from passage.*]

3752. Taxes of decedents, how paid.

SEC. 3752. The superior court must require every administrator or executor to pay out of the funds of the estate all taxes due from such estate; and no order or decree for the distribution of any property of any decedent among the heirs or devisees must be made until all taxes against the estate are paid. [*Amendment, approved March 22, 1880; Amendments 1880, 16 (Ban. ed. 47); took effect immediately.*]

3756. Taxes, when delinquent.

SEC. 3756. On the last Monday in December of each year, at six o'clock p. m., all unpaid taxes are delinquent, and thereafter the tax collector must collect for the use of the county an addition of five per cent. [*Amendment, approved March 22, 1880; Amendments 1880, 16 (Ban. ed. 47); took effect immediately.*]

3764. Publication of delinquent list; when made, what to contain.

SEC. 3764. On or before the first Monday in February of each year the tax collector in each of the counties other than San Francisco, and on or before the first Monday in March of each year in the City and County of San Francisco, the tax collector of said city and county must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property added to taxes on real estate, where the real estate is liable therefor, or the several taxes are due from the same person. The expense of the publication to be a charge against the county. [*Amendment, approved January 22, 1878; Amendments 1877-8, 68; took effect immediately.*]

3766. Manner of making publication.

Sec. 3766. The publication must be made once a week for three successive weeks in some newspaper, or supplement thereto, published in the county, and the publication must be contracted for with the lowest bidder, and after ten days' public notice that such will be let. The bidding must be by sealed proposals. If there is no newspaper published in the county, then by posting a copy of the list in three public places in each township. [*Amendment, approved April 1, 1878; Amendments 1877-8, 69; took effect from passage.*]

3816. Distribution of moneys received on redemption of property sold to State.

Sec. 3816. Whenever property sold to the State, pursuant to the provisions of this chapter, shall be redeemed as herein provided, the moneys received on account of such redemption shall be distributed as follows: The original tax and the fifty per cent. paid in redemption shall be apportioned between the State and county in the same proportion that the State tax bears to the county tax; the five per cent. additional, and the money received for delinquent poll tax, shall be paid to the county; the percentage allowed for the collection of the delinquent poll tax shall be paid to the collector, and the costs to the parties entitled thereto. The county treasurer shall keep an accurate account of all money paid in redemption of property sold to the State, and shall, on the first Monday of June in each year, make a detailed report, verified by his affidavit, of each account, year for year, to the controller of State, in such form as the controller may desire. Whenever the State shall receive from the tax collector any grant of property so sold for taxes, the same shall be recorded, at the request of the county treasurer, free of charge by the county recorder, and shall be immediately reported by the county treasurer to the State board of equalization. [*Amendment, approved March 28, 1878; Amendments 1877-8, 65; took effect immediately.*]

3329. Compensation of assessors.

Sec. 3829. For services rendered in the collection of taxes under section three thousand eight hundred and twenty, the assessors of the several counties shall receive six per cent. on the amount by him collected; provided, that all fees or commissions collected, under this or any other act, by the salaried officers, except in the collection of poll taxes in and for the City and County of San Francisco, shall be, by said officers, paid into the county treasury for the use of said city and county. [*Amendment, approved March 28, 1878; Amendments 1877-8, 65; took effect immediately.*]

3839. Poll tax, who liable.

Sec. 3839. Every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, insane persons, and Indians not taxed, must annually pay a poll tax of two dollars; provided, the same be paid between the first Monday in March and the first Monday in July; but if not paid prior to the first Monday in July, then it shall be three dollars; provided further, that nothing herein shall affect any laws imposing a greater poll tax upon inhabitants ineligible to citizenship. [*Amendment, approved March 22, 1880; Amendments 1880, 17 (Ban. ed. 47); took effect immediately.*]

3857. Assessor to keep roll of persons liable for poll tax.

Sec. 3857. The assessor must keep a roll of the names and local residence, or place of business, of all persons subject to or liable for poll tax, and, if paid, date and amount of each payment, and, if not paid, cause of non-payment; provided, that no person shall be returned as delinquent on such roll

unless a demand has been made upon him in person or through the post-office. [*Amendment, approved April 1, 1878; Amendments 1877-8, 69; took effect sixtieth day after passage.*]

3858. Roll to be returned to auditor.

SEC. 3858. On the third Monday in January of each year the assessor must deliver to the auditor the roll so made up, and the auditor must add to the total poll tax delinquent on such roll thirty-three and one-third per centum additional, and without delay deliver such list to the tax collector, and charge the collector therewith. [*Amendment, approved April 1, 1878; Amendments 1877-8, 69; took effect sixtieth day after passage.*]

3861. Proceeds of poll tax, to what fund paid.

SEC. 3861. The proceeds of the poll tax must be paid to the county treasurer, as provided by law, for the exclusive use of the State school fund, and shall, by such treasurer, be paid to the State as other moneys belonging to the State. [*Amendment, approved March 22, 1880; Amendments 1880, 17 (Ban. ed. 47); took effect immediately.*]

3862. Compensation of assessor.

SEC. 3862. The assessor, for services rendered in the collection of poll taxes, shall receive the sum of fifteen per cent.; and the collector, for services rendered in the collection of poll taxes on the delinquent list (including the publication), shall receive the sum of twenty-five per cent. on all delinquent poll tax collected by him. [*Amendment, approved March 28, 1878; Amendments 1877-8, 70; took effect from passage.*]

3866. Time when certain treasurers shall make settlement.

SEC. 3866. The treasurers of the Counties of Alameda, Amador, Contra Costa, Calaveras, El Dorado, Nevada, Placer, Sierra, Solano, Yolo, San Francisco, Sacramento, San Joaquin, Santa Clara, Tuolumne, and Yuba, respectively, must, between the fifteenth and thirtieth days of January, April, July, and October, of each year, and the county treasurers of the Counties of Humboldt, Del Norte, and Modoc, must, between the fifteenth and thirtieth days of October and April, in each year, and the county treasurers of other counties of this State must, between the fifteenth and thirtieth days of January and June, respectively, in each year, proceed to the State capital and settle in full with the controller of State, and pay over in cash to the treasurer of State, all funds which have come into their hands, as county treasurers, before the close of business at the end of the previous month. If, in the opinion of the controller of State, it appears from the report of the county auditor that sufficient property tax has not been collected to make it for the interest of the State that a settlement should be made, the controller shall defer the settlement until the next regular settlement. No mileage, fees, or commissions shall be allowed any officer for any deferred settlement; provided, that in case any settlement is to be deferred that the county auditor, in his next report to the controller of State, shall include therein all moneys required to be reported since the date of his last report upon which a settlement was made. [*Amendment, approved March 28, 1878; Amendments 1877-8, 66; took effect immediately.*]

3868. Settlement of auditors with controller.

SEC. 3868. The auditor of each county, between the first and tenth day of each month in which the treasurer of his county is required to settle with the controller, must make, in duplicate, and verify by his affidavit, a report to the controller of State, in such form as the controller may desire, showing specifi-

3868-3888 AMENDMENTS TO THE POLITICAL CODE.

cally the amount due the State from each particular source of revenue at the close of business on the last day of the preceding month. [*Amendment, approved March 28, 1878; Amendments 1877-8, 66; took effect immediately.*]

3887.

[Sec. 3887, relating to mortgaged or pledged personal property and providing that it should be deemed the property of the person in possession, was repealed by act of March 22, 1880; Amendments 1880, 17 (Ban. ed. 47); took effect immediately.]

3888.

An Act in relation to the currency of the United States.

Approved March 12, 1880; 1880, 8 (Ban. ed. 28).

Legal tender notes to be received at par.

SECTION 1. All legal tender notes heretofore issued, or which may hereafter be issued by the government of the United States of America, as legal tender notes, shall be received at par in payment for all taxes due or to become due to this State, or to any county or municipal corporation thereof, and such notes shall be a legal tender for all debts, dues, and demands between citizens of this State.

SEC. 2. All acts, and the provisions of any act or parts of acts conflicting with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

An Act prescribing the form of complaint in actions to recover delinquent taxes, and to authorize the bringing of suits therefor.

Approved April 23, 1880; 1880, 136 (Ban. ed. 402).

Form of complaint in action for delinquent taxes.

SECTION 1. In any action that may be hereafter commenced in any county, or city and county, in this State, for the collection of delinquent taxes for any fiscal year, the complaint may be in the following form, and shall be legally sufficient, and on the trial thereof the duplicate assessment roll for any said fiscal year, of said county, or city and county, or a copy of any entry therein duly certified, showing unpaid taxes against the defendant, or in cases where the defendant is sued in a representative capacity against any person or estate he represents, shall be prima facie evidence of the plaintiff's right to recover:

(Title of Court.) (Name of plaintiff) vs. (name of defendant). Plaintiff avers that defendant is indebted to plaintiff in the sum of \$—— (naming the amount for county, or city and county), taxes, with five per cent. penalty added thereto for the non-payment thereof, and interest thereon at the rate of two per cent. per month from the (date), and fifty cents costs of advertising. Plaintiff further avers that defendant is indebted to plaintiff in the further sum of \$—— (naming amount) for State taxes, with five per cent. penalty added thereto for the non-payment thereof, and interest thereon at the rate of two per cent. per month from (date), and fifty cents costs of advertising, which said taxes were duly assessed and levied upon (the real or personal) property of said defendant, to wit: (describe property as assessed) for the fiscal year (naming the year). Wherefore, plaintiff prays judgment against said defendant, for said several sums, with interest and penalty as aforesaid, and costs of suit. (Signature of attorney.)

And in any case where the defendant is sued in a representative capacity, such other further or additional allegations as may be necessary to charge him in such capacity; and it is further provided, that any county, or city and county, where such taxes are delinquent, may sue in its own name for the re-

covery of delinquent taxes, whether the same be for county, or city and county, and State purposes, or taxes, or either of them.

SEC. 2. This act shall take effect and be in force from and after its passage.

COUNTIES.

3928. Sacramento.

SEC. 3928. Beginning on the northern line of the county, at a point ten miles north of a point which was, on the thirtieth of March, eighteen hundred and fifty-seven, the mouth of the American River; thence easterly to the junction of the north and south forks of said river; thence up the principal channel of the south fork to a point one mile above Mormon Island, so as to include said island in Sacramento County, forming the northeast corner; thence southerly to a point on the Cosumnes River, eight miles above the house of William Daylor; thence south to Dry Creek, forming southeast corner; thence down said Dry Creek to its entrance into the Mokelumne River; thence down the Mokelumne River to a point where said river divides into east and west branches; thence down the west branch to its junction with the east branch; thence down said river to its junction with the San Joaquin River; thence down the San Joaquin River to the mouth of the Sacramento River, at the head of Suisun Bay, forming southwest corner; thence up the Sacramento River to the mouth of Merritt Slough; thence up said slough to the mouth of Sutter Slough; thence up said Sutter Slough to the Sacramento River; thence up the Sacramento River to a point west of the place of beginning, forming the northeast corner of Sacramento County; thence east to the place of beginning. [*Amendment, approved April 1, 1878; Amendments 1877-8, 70; took effect sixtieth day after passage.*]

[The foregoing amendment omitted to provide for or name the county seat of the county, which was a part of the section amended.]

3951. San Mateo.

SEC. 3951. Beginning at the southwest corner, being the west corner of Santa Cruz County, as established in section thirty-nine hundred and forty-nine; thence on northwestern line of Santa Cruz, as established in said section, to the southwestern line of Santa Clara, being the summit line of the Santa Cruz Mountains; thence northwesterly by said summit line to the source of San Francisquito Creek; thence down the south branch thereof and down said creek to its mouth; thence to a point in the middle of San Francisco Bay, opposite said mouth, forming common corner of San Mateo, Santa Clara, and Alameda; thence in a direct line to a point in the center of ship channel in the Bay of San Francisco, west of and opposite to Dumbarton Point; thence in a direct line to the southeast corner of San Francisco City and County, as established in section thirty-nine hundred and fifty; thence due west, on the southern line of San Francisco City and County, to the southwest corner thereof; thence southerly along the ocean shore to the point of beginning. The eastern boundary of San Mateo County shall be the western boundary of Alameda County, in so far as the same borders on San Mateo County. County seat, Redwood City. [*Amendment, approved March 14, 1878; Amendments 1877-8, 71; took effect from passage.*]

3977. Supervisors to order election.

SEC. 3977. If the petition is signed by qualified electors of the county, equal in number to at least three-fifths of all the votes cast in the county at the last preceding general election, the board must, at the next general election of

county officers, submit the question of removal to the electors of the county. [*Amendment, approved March 2, 1880; Amendments 1880, 2 (Ban. ed. 11); took effect immediately.*]

3978.

[Sec. 3978, relating to notice of election, was repealed by act of March 2, 1880; Amendments 1880, 3 (Ban. ed. 12); took effect immediately.]

3979. Election, how held and conducted.

SEC. 3979. Notice of such election, clearly stating the object, shall be given, and the election must be held and conducted, and the returns made in all respects in the manner prescribed by law in regard to elections for county officers. [*Amendment, approved March 2, 1880; Amendments 1880, 2 (Ban. ed. 12); took effect immediately.*]

3981. Notice of result.

SEC. 3981. When the returns have been received and compared, and the results ascertained by the board, if two-thirds of the legal votes cast by those voting on the proposition are in favor of any particular place, the board must give notice of the result by posting notices thereof in all the election precincts in the county. [*Amendment, approved March 2, 1880; Amendments 1880, 2 (Ban. ed. 12); took effect immediately.*]

3984. No second election to be held within four years.

SEC. 3984. When the election has been held and two-thirds of the votes are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof must be held within four years thereafter. [*Amendment, approved March 2, 1880; Amendments 1880, 3 (Ban. ed. 12); took effect immediately.*]

COUNTY GOVERNMENT.

4000. Every county a body corporate.

SEC. 4000. Every county is a body politic and corporate, and as such has the powers specified in this Code, and such powers as are necessarily implied from those expressed. [*Amendment, approved April 27, 1880; Amendments 1880, 93 (Ban. ed. 527); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4003. Enumeration of powers.

SEC. 4003. It has power:

1. To sue and be sued.
2. To purchase and hold lands within its limits.
3. To make such contracts, and purchase and hold such personal property as may be necessary to the exercise of its powers.
4. To make such orders for the disposition or use of its property as the interests of its inhabitants require.
5. To levy and collect such taxes for purposes under its exclusive jurisdiction as are authorized by law.

4004. Limitation on indebtedness or liabilities.

SEC. 4004. No county shall incur any indebtedness or liability in any manner, or for any purpose, exceeding in any year the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls

due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void.

1. It shall not be lawful hereafter for the board of supervisors of any county, or any committee, officer, or board, having power to authorize or contract liabilities against the treasury of said county, to authorize, allow, contract for, pay, or render payable, in the present or future, in any one month, any demand or demands against said treasury, or any of the funds thereof, which shall, in the aggregate, exceed one twelfth part of the amount allowed by laws existing at the time of such contract, authorization, allowance, payment, or liability to be expended within the fiscal year of which said month is a part. If at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the government of any county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended by order of the board of supervisors in any succeeding month. Nothing in this subdivision shall apply to the road fund nor to the school fund.

2. All contracts, authorizations, allowances, payments, and liabilities to pay made or attempted to be made, in violation of this act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county. And all officers of such county are charged with notice of the condition of the treasury of said county and the extent of the claims against the same.

3. All supervisors, and any other officer authorizing or aiding to authorize, or auditing or allowing any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this act, shall be liable in person and upon their several official bonds to the person or persons damaged by such illegal authorization to the extent of his loss by reason of the non-payment of his claim.

4. The treasurer paying any claim authorized, allowed, or audited in violation of this provision shall be liable on his official bond to refund the same to the county treasury. [*Amendment, approved April 27, 1880; Amendments 1880, 93 (Ban. ed. 527); took effect from and after July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4005.

[Sec. 4005, relating to temporary loans, was repealed by act of April 27, 1880; Amendments 1880, 94 (Ban. ed. 528); took effect July 1, 1880, at 12 o'clock M.]

4006. *Classification of counties.*

Sec. 4006. For the purposes of taxation, the counties of this State are hereby classified into ten classes, as follows:

1. The Counties of Alameda, Los Angeles, Sacramento, San Joaquin, Santa Clara, and Sonoma, shall constitute the first class:
2. The Counties of Butte, Nevada, and Solano, shall constitute the second class.
3. The Counties of Colusa, Contra Costa, Mendocino, Santa Barbara, Yolo, Yuba, Monterey, and Napa, shall constitute the third class.
4. The Counties of San Luis Obispo and Stanislaus shall constitute the fourth class.
5. The Counties of Fresno, Humboldt, Kern, San Bernardino, San Diego, Santa Cruz, Siskiyou, Tehama, and Tulare, shall constitute the fifth class.

6. The Counties of Amador, Calaveras, El Dorado, Lake, Merced, Placer, Shasta, Plumas, Sierra, Sutter, Tuolumne, and Ventura, shall constitute the sixth class.

7. The Counties of Marin and San Mateo shall constitute the seventh class.

8. The counties of Modoc and San Benito shall constitute the eighth class.

9. The Counties of Inyo, Mariposa, Lassen, and Trinity, shall constitute the ninth class.

10. The Counties of Alpine, Del Norte, and Mono, shall constitute the tenth class. [*Amendment, approved April 27, 1880; Amendments 1880, 94 (Ban. ed. 528); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4022. Boards of supervisors, how composed.

SEC. 4022. Each county must have a board of supervisors, consisting:

1. In counties of the first class of seven members.
2. In counties of the second class of five members.
3. In counties of the third class of five members.
4. In counties of the fourth class of five members.
5. In counties of the fifth class of five members.
6. In counties of the sixth class of five members.
7. In counties of the seventh class of five members.
8. In counties of the eighth class of three members.
9. In counties of the ninth class of three members.
10. In counties of the tenth class of three members.

The class of the county for the purposes of this section shall be determined in accordance with the classification for the purposes of taxation. [*Amendment, approved April 27, 1880; Amendments 1880, 95 (Ban. ed. 529); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4023. Qualifications.

SEC. 4023. Each member of the board of supervisors must be an elector of the district which he represents, and must have been such for at least one year immediately preceding his election, and shall be elected by such districts, and not at large. [*Amendment, approved April 27, 1880; Amendments 1880, 95 (Ban. ed. 529); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4024. Term of office.

SEC. 4024. Supervisors shall be elected at the general election held in November, eighteen hundred and eighty, and their terms of office shall begin on the first Monday after the first day of January, eighteen hundred and eighty-one, and shall be for four years. Those from the odd numbered districts shall go out of office in two years, and their successors be elected at the general election in eighteen hundred and eighty-two. [*Amendment, approved April 27, 1880; Amendments 1880, 95 (Ban. ed. 529); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4025. To be elected by districts.

SEC. 4025. In the counties of this State, supervisors shall be elected by districts, and the present board of supervisor of such counties shall, on or before the first Monday of September, eighteen hundred and eighty, redistrict their respective counties into supervisor districts, as nearly equal in population as may be, to correspond with the number of supervisors allowed by law. [*Amendment, approved April 27, 1880; Amendments 1880, 95 (Ban. ed. 530); took effect July 1, 1880; at 12 o'clock M.; repealed conflicting acts.*]

4026. Vacancy in board, how filled.

Sec. 4026. Whenever a vacancy occurs in the board of supervisors, by reason of a repeal of a special law, the superior judges shall fill the vacancy, by appointment, for the unexpired term. [*Amendment, approved April 27, 1880; Amendments 1880, 96 (Ban. ed. 530); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4027.

[Sec. 4027, relating to classification of members of boards of supervisors, was repealed by act of April 27, 1880; amendments 1880, 96 (Ban. ed. 530); took effect July 1, 1880, at 12 o'clock M.]

now:

To supervise official conduct of county officers.

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county charged with assessing, collecting, safe keeping, management, or disbursement of the public revenues, see that they faithfully perform their duties, direct prosecutions for delinquencies, and, when necessary, require them to renew their official bonds, to make reports, and to present their books and accounts for inspection.

To district county.

2. To divide the counties into townships, school, road, and other districts required by law, change the same and create others, as convenience requires.

To create election precincts.

3. To establish, abolish, and change election precincts, and to appoint inspectors and judges of elections, canvass all election returns, declare the result, and issue certificates thereof.

Roads, bridges, etc.

4. To lay out, maintain, control, and manage public roads, turnpikes, ferries, and bridges within the county, and levy such tax therefor as authorized by law.

Indigent sick.

5. To provide for the care and maintenance of the indigent sick, or the otherwise dependent poor of the county; erect, officer, and maintain hospitals therefor, or otherwise provide for the same, and to levy the necessary tax therefor.

To provide county farm.

6. To provide a farm in connection with the county hospital, and make regulations for working the same.

To provide rooms for county purposes.

7. When there are no necessary county buildings, to provide suitable rooms for county purposes.

To acquire property for the county.

8. To purchase, receive by donation, or lease any real or personal property necessary for the use of the county, preserve, take care of, manage, and control the same; but no purchase of real property must be made unless the value of the same has been previously estimated by three disinterested citizens of the county, appointed by them for that purpose, and no more than the appraised value must be paid therefor.

Provide county buildings.

9. To cause to be erected and furnished a court-house, jail, hospital, and such other public buildings as may be necessary; providing, that none of the aforesaid buildings shall be constructed until plans and specifications therefor shall have been made.

May sell county property.

10. To sell at public auction, at the court-house door, after thirty days' previous notice, given by publication in a newspaper of the county, or posted in five public places of the county, and convey to the highest bidder, for cash, any property belonging to the county no longer required for public use, paying the proceeds into the county treasury for the use of the county.

Audit accounts of officers.

11. To examine and audit the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the county, or appropriated by law or otherwise for its use and benefit.

Allow accounts.

12. To examine, settle, and allow all accounts legally chargeable against the county, except salaries of officers, and order warrants to be drawn on the county treasurer therefor, and provide for the issuing the same.

Levy taxes for county purposes.

13. They are authorized, and it is hereby made their duty, to levy such tax annually on the taxable property of their respective counties as may be necessary to pay the annual interest on, and to provide a sinking fund for, the extinguishment of the principal of the indebtedness of the same within the period of twenty years. In counties of the first and seventh classes, the supervisors shall also be allowed to levy upon the taxable property of their respective counties for all county purposes whatsoever, except such as are provided for in this section, such sum as may be necessary, not exceeding seventy cents on each one hundred dollars of valuation; in counties of the second, third, fourth, and eighth classes, such sum as may be necessary, not exceeding one dollar on each one hundred dollars of valuation; in counties of the fifth class, such sum as may be necessary, not exceeding one dollar and fifty cents on each one hundred dollars of valuation; in counties of the sixth class, such sum as may be necessary, not exceeding one dollar and forty cents on each one hundred dollars of valuation; in all counties of the ninth class, such sum as may be necessary, not exceeding one dollar and eighty cents on each one hundred dollars of valuation; and in all counties of the tenth class, such sum as may be necessary, not

exceeding two dollars and fifty cents on each one hundred dollars; provided, that in the counties of the first class the board of supervisors, when necessary, may establish a special building fund for the purpose of erecting a court-house and jail, or hall of records, or either, and for that fund may levy a special tax in addition to the amount herein provided, not exceeding thirty-five cents on each one hundred dollars of the taxable property in the county, in each year, for not exceeding two years, and into which fund may also be paid the proceeds of the sale of any real estate of the county sold under this act.

Funding indebtedness.

14. To fund or refund the outstanding indebtedness of the county, and to issue bonds for that purpose; to give such bonds, or any part thereof, in exchange, at par, for outstanding warrants, or bonds not exceeding the par value of such warrants or bonds, or to sell said bonds; or any part thereof, and with the proceeds of such sale redeem the outstanding indebtedness, or any part thereof; such sale to be made at public auction, after not less than four weeks' notice by publication in a newspaper published within said county, and also in a daily newspaper published within the City and County of San Francisco; said publication to be made at least once a week. To prescribe, by order, the form of said bonds and coupons, fix the time of payment (not to exceed twenty years), the manner of payment, and provide for an interest and redemption fund. The bonds and coupons must be signed by the chairman of the board, and be countersigned and registered by the county treasurer. The rate of interest on said bonds must not exceed the rate borne by the old indebtedness, nor in any event be greater than seven per cent. per annum. The bonds shall not be sold for less than their par value, nor issued in larger sums than one hundred dollars.

Redemption of outstanding indebtedness.

15. To, whenever bonds theretofore issued by the county are within one year of maturity, and it appears that at the maturity thereof there will not be sufficient money in the fund provided for the redemption thereof to redeem the same at maturity, issue and give in exchange for the same bonds in excess of the amount which it is estimated there will be in such fund at the maturity of the bonds to be redeemed, or may issue new bonds to the amount of such excess, sell the same at public auction, after at least four weeks' notice, and apply the proceeds of the sale to the payment of the outstanding bonds. All the provisions of subdivision fourteen hereof relative to the form of bonds and coupons, the time and manner of payment, the interest and redemption fund, the signature, issuance, and registration, and the interest on and sale of bonds under that subdivision, shall be applicable to bonds issued under this subdivision.

To prevent trespassing of animals.

16. To prescribe by ordinance, not in conflict with the laws of the State, for the prevention of the trespassing of animals upon unfenced lands in the county, or in any particular part of the county, to be specifically defined and described in such ordinance. Such ordinance, however, shall not take effect until sixty days after its passage, nor until the same shall have been published for not less than four weeks in some newspaper printed and published in such county, or if none be so published, then in some newspaper of general circulation in such county, to be designated by such board.

Equalize assessments.

17. To equalize the assessments.

Defend suits.

18. To direct and control the prosecution and defense of all suits to which the county is a party.

Insure property.

19. To insure the county buildings in the name of and for the benefit of the county.

Grant licenses.

20. To grant licenses and franchises, as provided by law, for constructing, keeping, and taking tolls on roads, bridges, ferries, wharves, chutes, and piers.

Fix compensation of officers.

21. To fix the compensation of all county and township officers not otherwise paid, including or excluding the payment of all clerks or deputies, and if excluded, shall fix the compensation of such deputies or clerks in proportion to the duties of such officers, and shall provide for the payment of the same by establishing salary fund for that purpose; and also to establish such other county funds as they may deem necessary for the proper transaction of the business of the county.

Fill vacancies.

22. To fill, by appointment, all vacancies that may occur in county or township offices, except those of superior judge and supervisor.

Health regulations.

23. To adopt such provisions for the preservation of the health of their respective counties as they may deem necessary, and to provide for the expenses thereof.

Contract for printing.

24. To contract for the county printing and advertising in a paper of general circulation, wholly printed and published within the county, if there be any such, and provide books and stationery for county officers; provided, that contracts for the same shall only be made with the lowest bidder, after due advertisement once a week for four consecutive weeks, in a newspaper printed and published in the county; or if none be published therein, then in a newspaper having the largest circulation in an adjoining county; provided, further, that in any county having more than one newspaper printed and published therein, the contract shall not be let to the managers or proprietors of a printing establishment which has not maintained a daily or weekly paper therein for at least one year before the date of such contract.

Publish financial condition of county.

25. The board shall cause to be published in the newspaper to which has been awarded the contract for county printing, a semi-annual statement of the financial condition of the county, and after each session of the board, a fair statement of all the proceedings thereat.

Make rules, etc.

26. To make and enforce such rules and regulations for the government of their body, the preservation of order, and the transaction of business as may be necessary.

Adopt seal.

27. To adopt a seal for their board, a description and impression whereof must be filed by their clerk in the office of the county clerk and secretary of State.

May do all other acts required or necessary.

28. To do and perform all other acts and things which may be necessary to the full discharge of the duties of the chief legislative authority of the county government; but it shall not be lawful for any supervisor to vote upon the consideration of any measure in which he, or any member of his family, or partner, may be pecuniarily interested.

Local, police, etc., regulations.

29. To make and enforce all such local, police, sanitary, and other regulations as are not in conflict with general laws. [*Amendment, approved April 27, 1880; Amendments 1880, 96 (Ban. ed. 530); took effect July 1, 1880, at twelve o'clock M.; repealed conflicting acts.*]

4047. Special powers of supervisors.

SEC. 4047. The board of supervisors shall have power to direct the sheriff to attend in person, or by deputy, all the meetings of the board, to preserve order, serve the notices or citations, as directed by the board. And the board shall have the same power to punish for contempt, by fine and imprisonment, as is now exercised and allowed by law to superior courts, to require obedience to their citations and decorum in their meetings. [*Amendment, approved April 3, 1880; Amendments 1880, 23 (Ban. ed. 112); took effect immediately.*]

[There is some confusion in reference to section 4047. The legislature of 1873-4, on March 18, 1874 (Amendments 1873-4, 172), added a new section of that number, and on March 30, 1874 (Amendments 1873-4, 56), added a second new section of the same number. The foregoing amendment of 1880 was expressly an amendment to the section as adopted on March 18, 1874. The legislature of 1877-8 amended section 4047, relating to the same subject-matter as the section as passed on March 30, 1874, as follows:]

4047. Supervisors must contract for what.

SEC. 4047. The supervisors must contract for:

First—All county printing.

Second—All books and stationery.

Third—All supplies for county institutions.

And all contracts must be made with the lowest bidder, and after ten days' public notice that such contract will be let. The bidding must be by sealed proposals. [*Amendment, approved April 1, 1878; Amendments 1877-8, 69; took effect from passage.*]

4048. Funding outstanding indebtedness of counties.

SEC. 4048. The board of supervisors of any county having an outstanding indebtedness on the first day of January, eighteen hundred and eighty, evidenced by bonds or warrants thereof, by a vote of two-thirds of all the members thereof, are empowered, if they deem it for the public interest to fund or refund the same, and issue bonds of the county therefor, in sums not less than one hundred dollars, nor more than one thousand dollars each, having not more than twenty years to run, and bearing a rate of interest not exceeding seven per cent. per annum, payable semi-annually, which bonds shall be substantially in the following form: No. ——. The County of —, in the State of California, for value received, promises to pay —, or order, at the office of the treasurer of said county in —, on the first day of —, 18—, or at any time before that

date, at the pleasure of the county, the sum of — dollars, with interest at the rate of — per cent. per annum, payable at the office of said treasurer semi-annually, on the first days of — and — in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued by the board of supervisors under the provisions of chapter — of the Political Code of California, and in conformity with a resolution of said board, dated — day of —, 18—. [Seal.] In testimony whereof, the said county, by its board of supervisors, has caused this bond to be signed by the chairman of the board, and attested by the auditor, with the county seal attached, this — day of —, 18—. —, Chairman of Board of Supervisors. Attest: —, Auditor. And the interest coupon shall be in the following form: \$—. The treasurer of — County, California, will pay the holder hereof, on the — day of —, 18—, at his office in —, — dollars for interest on County Bond No. —, issued under provisions of chapter — of the Political Code of California. —, County Auditor. [*New Section, approved April 16, 1880; Amendments 1880, 62 (Ban. ed. 313); took effect from passage.*]

4049. Bonds.

SEC. 4049. Whenever bonds issued under this chapter shall be duly executed, numbered consecutively and sealed, they shall be delivered to the county treasurer and his receipt taken therefor, and he shall stand charged on his official bond with all bonds delivered to him, and the proceeds thereof, and he shall sell the same or exchange them under the direction of the board of supervisors on the best available terms for any legal indebtedness of the county outstanding on the first day of January, eighteen hundred and eighty, but in neither case for a less sum than the face value of the bonds, and all interest accrued on them at the date of such sale or exchange. And if any portion of the said bonds are sold for money, the proceeds thereof shall be applied exclusively for the payment of liabilities existing against the county at and before the date above named. When they are exchanged for bonds or warrants, or other legal evidences of county indebtedness, the treasurer shall at once proceed to cancel the old bonds and such other evidences of indebtedness, by indorsing on the face thereof the amount for which they were received, the word "canceled," and the date of cancellation. He shall also keep a record of bonds sold or exchanged by him by number, date of sale, amount, date of maturity, the name and post-office address of purchasers; and if exchanged, what evidences of indebtedness were received therefor; which record shall be open at all times for inspection by the public. Whenever the holder of any bond shall sell or transfer it, the purchaser shall notify the treasurer of such purchase, giving at the same time the number of the bond transferred and his post-office address; and every transfer shall be noted on the record. The treasurer shall also report, under oath, to the board, at each regular session, a statement of all bonds sold or exchanged by him since the preceding report, and the date of such sale or exchange; and when exchanged, a list or description of the county indebtedness exchanged therefor, and the amount of accrued interest received by him on such sale or exchange, which latter sum shall be charged to him as money received by him on bond fund, and so entered by him on his books; but such bonds shall not be sold or exchanged for any indebtedness of the county, except by the approval of the board of supervisors of said county. No sale shall be made of any such bonds, except to the highest bidder, after advertising bids for the purchase of the same for not less than three weeks in at least one newspaper published in the county; the right being reserved in such advertisement

to reject any or all such bids. [*New Section, approved April 16, 1880; Amendments 1880, 62 (Ban. ed. 314); took effect from passage.*]

4050. Assessment.

Sec. 4050. The board of supervisors shall cause to be assessed and levied each year upon the taxable property of the county, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds issued in conformity with the provisions of this chapter accruing before the next annual levy, and such proportion of the principal that at the end of five years the sum raised from such levies shall equal at least twenty per cent. of the amount of bonds issued; at the end of nine years, at least forty per cent. of the amount; and at and before the date of maturity of the bonds, shall be equal to the whole amount of the principal and interest; and the money arising from such levies shall be known as the bond fund, and shall be used for the payment of bonds and interest coupons, and for no other purpose whatever; and the treasurer shall open and keep in his books a separate and special account thereof, which shall at all times show the exact condition of said bond fund. [*New Section, approved April 16, 1880; Amendments 1880, 63 (Ban. ed. 315); took effect from passage.*]

4051. Redemption.

Sec. 4051. Whenever the amount in the hands of the treasurer belonging to the bond fund, after setting aside the sum required to pay the interest maturing before the next levy, is sufficient to redeem one or more bonds, he shall notify the owner of such bond or bonds, by advertising in any newspaper published in the county, not less than once a week for three successive weeks, and in some newspaper of general circulation published in the City of San Francisco, not less than once a week for three successive weeks, that he is prepared to pay the same, with all interest accrued thereon, and that if not presented for payment or redemption within forty days after the date of the publication of such notice, the interest on such bonds shall cease, and the amount due thereon shall be set aside for its payment whenever presented. If said bonds are not so presented interest shall cease, and the amount due be set aside as specified in said advertisement. All redemptions shall be made in the exact order of their issuance, beginning at the lowest or first number, and the notice herein required shall be directed to the post-office address of the owner, as shown by the record kept in the treasurer's office. [*New Section, approved April 16, 1880; Amendments 1880, 64 (Ban. ed. 315); took effect from passage.*]

4052. Failure to levy tax, owner may file bond with State controller.

Sec. 4052. If the board of supervisors of any county which has issued bonds under the provisions of this chapter, shall fail to make the levy necessary to pay such bonds, or interest coupons, at maturity, and the same shall have been presented to the county treasurer, and the payment thereof refused, the owner may file the bond, together with all unpaid coupons, with the State controller, taking his receipt therefor, and the same shall be registered in the State controller's office; and the State board of equalization shall, at their next session, and at each annual equalization thereafter, add to the State tax to be levied in said county a sufficient rate to realize the amount of principal or interest past due, and to become due, prior to next levy, and the same shall be levied and collected as a part of the State tax, and paid into the State treasury, and passed to the special credit of such county as bond tax, and shall be paid by warrants, as the payments mature, to the holder of such reg-

istered obligations, as shown by the register in the office of the State controller, until the same shall be fully satisfied and discharged; any balance then remaining being passed to the general account and credit of said county. [*New Section, approved April 16, 1880; Amendments 1880, 64 (Ban. ed. 315); took effect from passage.*]

4078. *Transfer of applications, in what cases made.*

Sec. 4078. Whenever an application is made to the board for an order, franchise, or license relating to any toll road, bridge, ferry, wharf, chute, pier, or other subject over which the board has jurisdiction, in which a majority of the board are not disinterested, the application, by order of the board, must be transferred to the board of supervisors of an adjoining county; the clerk of the board must thereupon certify the application and all orders and papers relating thereto to the board to which the transfer is ordered; and thereafter the board to which the same is certified has full jurisdiction to hear and determine the application. [*Amendment, approved April 3, 1880; Amendments 1880, 23 (Ban. ed. 113); took effect immediately.*]

4080.

[Sec. 4080, relating to cultivation of shade and ornamental trees, was repealed by act of April 27, 1880; Amendments 1880, 100 (Ban. ed. 534); took effect July 1, 1880, at 12 o'clock M.]

4083. *Annual statement; when made, and what to contain.*

Sec. 4083. The board must have prepared by the clerk, and when he is not also auditor, then by that officer, and under their direction, prior to their regular November meeting, a statement, in duplicate, showing:

First—The indebtedness of the county, funded and floating, the amount of each class, and the rate of interest borne by each class of such indebtedness, or any part thereof.

Second—A concise description of all property owned by the county, with an approximate estimate of the value thereof, and the amount of cash in the county treasury subject to the payment of such indebtedness.

Third—The rate of taxation for county purposes as shown by the last levy made by the board.

One of the statements mentioned in this section must be filed with the board on the first day of the November meeting, and the other forwarded immediately, by mail or express, to the controller of State. The controller of State shall include in his biennial reports to the governor a digest and synopsis, in tabular form, of all reports received by him under the provisions of this section, and shall name therein the counties, if any, which have failed to make the reports as herein provided. [*Amendment, approved March 28, 1878; Amendments 1877-8, 66; took effect immediately.*]

4087. *Chapter not to apply to consolidated cities and counties.*

Sec. 4087. This chapter does not apply to any consolidated government of a "city and county." [*Amendment, approved April 27, 1880; Amendments 1880, 100 (Ban. ed. 534); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

An Act to authorize the boards of supervisors of the several counties of this State to transfer certain funds.

Approved April 23, 1880; 1880, 133 (Ban. ed. 399).

Transfer of funds.

SECTION 1. The boards of supervisors of every county in this State, when they deem it expedient and for the best interest of the county, are hereby author-

ized and empowered to transfer moneys remaining in the swamp land fund, and such moneys as may remain in any of the sinking fund of the county, to the general county fund of such county, which transfer or transfers shall be deemed as a loan from said swamp land or such sinking fund, to said general county fund.

Repayment.

SEC. 2. Whenever it shall be necessary to repay the amount so transferred, or loaned to the swamp land or sinking fund from which the same has been transferred, or any part thereof, the board of supervisors shall cause a warrant to be drawn upon said general county fund for the amount so loaned or transferred, or any part thereof; and said warrant shall be a preferred claim upon said general county fund over and above all warrants outstanding against said fund, and shall be paid out of the first moneys received in such general county fund.

SEC. 3. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act shall be in force from and after its passage.

4103. County officers enumerated.

SEC. 4103. The officers of a county are:

A superior judge; provided, that the Counties of Alameda, Los Angeles, Sonoma, Sacramento, Santa Clara, and San Joaquin, shall each elect two superior judges, and the Counties of Sutter and Yuba combined, one;

A treasurer;

A county clerk;

An auditor;

A sheriff;

A tax collector;

A district attorney;

A recorder;

An assessor;

A surveyor;

A school superintendent;

A coroner;

The members of a board of supervisors; provided, that the board of supervisors may, by proper ordinance, consolidate or unite the duties of two or more offices in one. [*Amendment, approved April 27, 1880; Amendments 1880, 100 (Ban. ed. 534); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4104. Township officers.

SEC. 4104. The officers of a township are at least one justice and one constable; provided, that in any county, when, in the opinion of the board of supervisors, the public convenience requires it, the said board may provide that two justices and two constables shall be elected for any township, designating the township. The board of supervisors of each county, on or before the first Monday of September, eighteen hundred and eighty, and thereafter as public convenience shall require, shall divide their respective counties into townships, for the purpose of electing justices of the peace and constables; and such townships shall be known as judicial townships. [*Amendment, approved April 27, 1880; Amendments 1880, 100 (Ban. ed. 535); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4105.

[Secs. 4105 and 4106, relating to uniting or consolidating offices, or, in other words, making certain officers ex officio other officers, were repealed, or intended so to be, by the act of April 27, 1880; Amendments 1880, 100 (Ban. ed. 535). It is to be noted, however, that although the title of the act referred to declares one of its objects to be to repeal those sections, the body of the act mentions sections "four thousand and five, and four thousand and six," as the ones repealed. As a matter of fact, the first of the last-named sections was repealed and the second of them amended in a previous part of the same act. The error was probably one either of engrossment or printing.]

4109. County officers, when elected, and term of.

Sec. 4109. The successors of all county officers (except judicial officers and school superintendent) who were elected in the year eighteen hundred and seventy-nine, under general or special laws for two years, shall be elected at the general election to be held in the year eighteen hundred and eighty, and shall take office on the first Monday in March, eighteen hundred and eighty-one; and all county officers (except judicial officers) who were elected in the year eighteen hundred and seventy-nine for four years, shall hold office until the first Monday of March, eighteen hundred and eighty-three. At the general election to be held in eighteen hundred and eighty-two, and at the general election to be held every four years thereafter, all county officers (except judicial officers) shall be elected and hold office four years from and after the first Monday of March next succeeding their election. Superior judges shall be elected at the general election in eighteen hundred and eighty-four, and at the general election to be held every six years thereafter. Township officers shall be elected at the general election in eighteen hundred and eighty, and every two years thereafter. [*Amendment, approved April 27, 1880; Amendments 1880, 100 (Ban. ed. 535); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4110.

[Secs. 4110 and 4111, relating to elections and terms of office of certain county officers, were repealed by act of April 27, 1880; Amendments 1880, 101 (Ban. ed. 535); took effect July 1, 1880, at 12 o'clock M.]

4112.

An Act relating to the appointment of aliens to positions under State, county, city and county, city or town officials.

Approved April 3, 1880; 1880, 28 (Ban. ed. 116).

[This is given ante, 876. It forbids the employment of any person who is not a citizen of the United States as a deputy or clerk in any public office.]

An Act to enable boards of supervisors to authorize the employment of a deputy in certain cases.

Approved April 9, 1880; 1880, 27 (Ban. ed. 155).

Deputies to ex officio auditors and recorders.

SECTION 1. The board of supervisors of any county now of the first class, under the provisions of section four thousand and six of the Political Code, in which the ex officio auditor and recorder is not authorized by law to employ a deputy, may, by resolution, authorize the said ex officio auditor and recorder to employ a deputy, and to fix the compensation such deputy shall receive, not to exceed one hundred and twenty-five dollars per month.

Sec. 2. This act shall take effect immediately.

4115. Vacancies, how filled.

Sec. 4115. A vacancy in the office of superior judge is filled by an appointee

of the governor. All other vacancies in county and township offices are filled by appointments made by the board of supervisors. Appointees hold until the vacancies are filled by election. [*Amendment, approved April 27, 1880; Amendments 1880, 101 (Ban. ed. 535); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4116. *What offices to be kept at county seat.*

SEC. 4116. Sheriffs, clerks, recorders, treasurers, tax collectors, district attorneys, and auditors must have their offices at the county seat, and keep them open for the transaction of business from nine o'clock A. M. till five o'clock P. M., non-judicial days excepted. The superior judge must establish such rules and hours for official business as may be necessary for the dispatch thereof. [*Amendment, approved April 27, 1880; Amendments 1880, 101 (Ban. ed. 536); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4119. *Certain officers must reside at county seat.*

SEC. 4119. The following officers must reside at the county seat of their respective counties: The county clerk, auditor, sheriff, tax collector, and district attorney. [*Amendment, approved April 27, 1880; Amendments 1880, 101 (Ban. ed. 536); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4134.

[Sec. 4134, relating to certain duties of the county judge, was repealed by act of April 27, 1880; Amendments 1880, 101 (Ban. ed. 536); took effect July 1, 1880, at 12 o'clock M.]

4165. *Treasurer must permit books to be examined.*

SEC. 4165. The treasurer must permit the chairman of the board of supervisors, district attorney, and auditor to examine his books and count the money in the treasury whenever they may wish to make an examination or counting. [*Amendment, approved April 27, 1880; Amendments 1880, 101 (Ban. ed. 536), took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4192. *Elisors to act in cases designated.*

SEC. 4192. Process and orders in an action or proceeding may be executed by a person residing in the county, designated by the court or the judge thereof, and denominated an elisor, in the following cases:

1. When the sheriff and coroner are both parties;
2. When either of these officers is a party, and the process is against the other; and,
3. When either of these officers is a party and there is a vacancy existing in the office of the other, or when it appears by affidavit to the satisfaction of the court in which the proceeding is pending, or the judge thereof, that both of these officers are disqualified, or by reason of any bias, prejudice, or other cause, would not act promptly or impartially.

When process is delivered to an elisor, he must execute and return it in the same manner as the sheriff is required to execute similar process. [*Amendment, approved April 27, 1880; Amendments 1880, 101 (Ban. ed. 536); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4204. *Duties of county clerk.*

SEC. 4204. The county clerk must:

1. Take charge of, and safely keep or dispose of, according to law, all books, papers, and records which may be filed or deposited in his office.
2. Act as clerk of the board of supervisors, and as clerk of the superior court, and attend each session thereof, and upon the judge at chambers, when required.

3. Issue all process and notices required to be issued; enter all orders, judgments, and decrees proper to be entered; keep in the superior court a docket, in which must be entered the title of each cause, with the date of its commencement; a memorandum of every subsequent proceeding therein, with the date thereof, and a list of all the fees charged.

4. Keep for the superior court an index of all suits, labeled "General Index—Plaintiffs," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of Suit," "Plaintiffs," "Defendants," "Date of Judgment," "Number of Judgment," "Page of entry of Judgment in Judgment Book," "Page of Minute Book;" also, an index labeled "General Index—Defendants," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of Suit," "Defendants," "Plaintiffs," "Date of Judgment," "Number of Judgment," "Page of entry of Judgment in Judgment Book," "Page in Order Book." Keep an index of the names of persons naturalized. [*Amendment, approved April 27, 1880; Amendments 1880, 102 (Ban. ed. 536); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4205.

An Act in relation to certain deputies and assistants of county clerks.
Approved February 13, 1880; 1880, 5 (Ban. ed. 5).

Assignment of deputy county clerks to duties in new courts.

SECTION 1. In all cases in which by statutes in force on the thirty-first day of December, eighteen hundred and seventy-nine, the county clerk of any county, or city and county, is authorized to appoint deputies or assistants, to whom duties are assigned by such statutes, in, or in connection with any of the courts which were abolished by the constitution, the clerk may assign to such deputies or assistants duties in, or in connection with the superior court of his county, or city and county, and they shall be entitled to the same compensation as is provided in said statutes, and the same shall be audited and paid at the same time and in the same manner and from the same source as is provided therein.

SEC. 2. This act shall take effect immediately.

An Act in relation to certain deputies, assistants, and copyists of county clerks.
Approved April 2, 1880; 1880, 20 (Ban. ed. 104).

County clerks to appoint deputies, etc.

SEC. 1. In all cases in which, by statutes in force on the thirty-first day of December, eighteen hundred and seventy-nine, the county clerk of any city and county having over one hundred thousand inhabitants, is authorized to appoint deputies, assistants, and copyists, in, or in connection with the courts which are abolished by the constitution now in force, the county clerk may appoint four competent persons as such deputies, assistants, and copyists for each superior court; and where by law such superior court is entitled to more than one judge, he may appoint four competent persons as such deputies, assistants, and copyists for each additional judge; and such deputies, assistants, and copyists, so appointed, shall be entitled to the same compensation as is provided in said statutes, and the same shall be audited and paid at the same time and manner and from the same source as is provided therein. He may also appoint such additional number of copyists as the business of his office shall, in his discretion, from time to time require (provided said number shall not exceed, at any one time, three copyists for each judge of the superior court), at a compensation not to exceed three dollars per day each, for the days of actual ser-

vice rendered; such additional copyists shall be paid at the same time and manner as is provided for such deputies, assistants, and copyists.

Sec. 2. This act shall take effect immediately.

4221. *What officers to count money in treasury.*

SEC. 4221. The chairman of the board of supervisors, district attorney, and auditor, must, at least once in each month, count the money in the county treasury, and make and verify in duplicate, statements showing:

1. The amount of money that ought to be in the treasury.

2. The amount and kind of money actually therein. [*Amendment, approved April 27, 1880; Amendments 1880, 102 (Ban. ed. 537).*]

4256. *Duties of district attorney.*

SEC. 4256. The district attorney is the public prosecutor, and must:

1. Attend the superior court, and conduct, on behalf of the people, all prosecutions for public offenses.

2. Institute proceedings before the magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the superior court, must attend upon the magistrates in cases of arrest, when required by them, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought against the State or his county, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the State or his county.

4. Deliver receipts for money or property received in his official capacity, file duplicates thereof with the county treasurer.

5. On the first Monday of each month, in each year, file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month, and at the same time pay it over to the county treasurer.

6. Give, when required, and without fee, his opinion (in writing) to county, district, and township officers on matters relating to the duties of their respective offices. And,

7. Keep a register of official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially, and of the proceedings therein.

8. Perform such other duties as are prescribed by law. [*Amendment, approved April 27, 1880; Amendments 1880, 102 (Ban. ed. 537); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4292. *Coroner may subpoena physician or chemist.*

SEC. 4292. The coroner, or other officer holding an inquest upon the body of a deceased person, may subpoena a physician or surgeon to inspect the body, or a chemist to make an analysis of the contents of the stomach or the tissues of the body of the deceased, and to give a professional opinion as to the cause of the death. Any physician, surgeon, or chemist, professionally attending as a witness on an inquest, or upon a trial of any person charged with murder or manslaughter, or in cases of inquiry into the lunacy or insanity of any person, as above provided, shall be allowed a reasonable compensation for such attendance or examination by the board of supervisors, upon the written certificate

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of the court or officer requiring such services, as to the extent and value of the same; but such certificate shall not be conclusive as to the amount of compensation. [*Amendment, approved April 27, 1880; Amendments 1880, 103 (Ban. ed. 538); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4304.

[Sec. 4304, relating to duties of commissioners of highways and road overseers, was repealed by act of April 27, 1880; Amendments 1880, 103 (Ban. ed. 538); took effect July 1, 1880, at 12 m.]

4314. *Constables to attend justice's court.*

SEC. 4314. Constables must attend the court of the justice of the peace within their townships whenever so required, and within their counties execute, serve, and return all process and notices directed or delivered to them by a justice of the peace of such county, or by any competent authority. [*Amendment, approved April 27, 1880; Amendments 1880, 103 (Ban. ed. 538); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4328. *Salaries, how paid.*

SEC. 4328. The salaries of the county officers must be paid monthly from the salary county fund of the county treasury, on the warrant of the auditor, except that part of the salary of the superior judge which is paid by the State, and that shall be paid monthly from the State treasury, on the warrant of the State controller. [*Amendment, approved April 27, 1880; Amendments 1880, 104 (Ban. ed. 538); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4329. *Salaries of superior court judges.*

SEC. 4329. The annual salaries of the superior court judges of the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada, and Sonoma, are four thousand dollars each. The annual salaries of such judges in the other counties are three thousand dollars each. [*Amendment, approved April 27, 1880; Amendments 1880, 104 (Ban. ed. 539); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*]

4344. *County charges, what are.*

SEC. 4344. The following are county charges:

1. Charges incurred against the county by virtue of any provision of this title.
2. The expenses necessarily incurred in the support of persons charged with or convicted of crimes and committed therefor to the county jail.
3. The sums required by law to be paid to grand jurors and indigent witnesses in criminal cases.
4. The accounts of the coroner of the county for such services as are not provided to be paid otherwise.
5. All charges and accounts for services rendered by any justice of the peace for services in the examination of persons charged with crime not otherwise provided for by law.
6. The necessary expenses incurred in the support of county hospitals, and the indigent sick, and the otherwise dependent poor, whose support is chargeable to the county.
7. The contingent expenses necessarily incurred for the use and benefit of the county.
8. Every other sum directed by law to be raised for any county purpose under the direction of the board of supervisors, or declared to be a county charge.

[*Amendment, April 27, 1880; Amendments 1880, 104 (Ban. ed. 539); took effect July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*

4348. Officers entitled to fees—Compensation of supervisor.

SEC. 4348. The county surveyor, coroner, and justices of the peace, and constables receive fees and commissions which are prescribed by law, which fees and commissions shall be in full payment for all services rendered by them. Each member of the board of supervisors shall receive five dollars a day for each day necessarily employed in attending the sessions of the board, and twenty cents a mile in traveling to and from his residence to the county seat; provided, that no charge shall be made for more than one trip at term of the board; and provided further, that such per diem and mileage shall not exceed in the aggregate the sum of eight hundred dollars per annum for any one of such supervisors. [*New Section, approved April 27, 1880; Amendments 1880, 104 (Ban. ed. 539); took effect from July 1, 1880, at 12 o'clock M.; repealed conflicting acts.*

CITY GOVERNMENT.

[A new chapter, to be known as Chapter VI, was added to Title III of Part IV by act approved April 27, 1880; Amendments 1880, 105 (Ban. ed. 540); took effect from passage. The new chapter is as follows:]

CHAPTER VI.

FUNDING AND REFUNDING OF CITY INDEBTEDNESS.

4445. Power of trustees or municipal council to fund indebtedness; issue of bonds.

SEC. 4445. The board of trustees or municipal council of any city having an outstanding indebtedness on the first day of January, eighteen hundred and eighty, evidenced by bonds or warrants thereof, by a vote of two-thirds of all the members thereof, are empowered, if they deem it for the public interest, to fund or refund the same, and issue bonds of the city therefor in sums not less than one hundred dollars nor more than one thousand dollars each, having not more than twenty years to run, and bearing a rate of interest not exceeding seven per cent. per annum, payable semi-annually, which bonds shall be substantially in the following form: No.—. The City of —, in the County of —, in the State of California, for value received, promises to pay —, or order, at the office of the treasurer of said city, in —, on the first day of —, 18—, or at any time before that day, at the pleasure of the city, the sum of — dollars, with interest at the rate of — per cent. per annum, payable at the office of the said treasurer, semi-annually, on the first days of — and —, in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued by the board of trustees [or municipal council, as the case may be], under the provisions of chapter six, of title three, of part four, of the Political Code of California, and in conformity with a resolution of said board of trustees [or municipal council], dated — day of —, 18—. In testimony whereof, the said city, by its board of trustees [or municipal council], has caused this bond to be signed by the president of the board of trustees [or municipal council], and attested by the auditor, with the city seal attached, this — day of —, 18—. (Seal.) —, President of the board of trustees [or municipal council]. Attest: —, Auditor. And the interest coupon shall be in the following form: \$—. The Treasurer of the City of —, County of —, State of California, will pay the holder hereof, on the — day of —, 18—, at his office in —, — dollars for interest on City Bond No.—, issued

under provisions of chapter six, of title three, of part four, of the Political Code of California. —, City Auditor. If the president of the board of trustees, or municipal council, be *ex officio* auditor, then, and in that case, said bonds shall be attested by the city clerk instead of the auditor.

4446. *Sale and exchange of bonds.*

Sec. 4446. Whenever bonds issued under this chapter shall be duly executed, numbered consecutively, and sealed, they shall be delivered to the city treasurer, and his receipt taken therefor, and he shall stand charged on his official bond with all bonds delivered to him and the proceeds thereof, and he shall sell the same, or exchange them under the directions of the board of trustees, or municipal council, on the best available terms, for any legal indebtedness of the city outstanding on the first day of January, eighteen hundred and eighty; but in neither case for a less sum than the face value of the bonds, and all interest accrued on them at the date of such sale or exchange; and if any portion of the said bonds are sold for money, the proceeds thereof shall be applied exclusively for the payments of liabilities existing against the city at and before the date above named. When they are exchanged for bonds or warrants, or other legal evidences of city indebtedness, the treasurer shall at once proceed to cancel the old bonds and such other evidences of indebtedness by indorsing on the face thereof the amount for which they were received, the word "canceled," and the date of cancellation. He shall also keep a record of bonds sold or exchanged by him, by number, date of sale, amount, date of maturity, the name and post-office address of the purchaser, and, if exchanged, what evidences of indebtedness were received therefor, which record shall be open at all times for inspection by the public. Whenever the holder of any bond shall sell or transfer it, the purchaser shall notify the treasurer of such purchase, giving at the same time the number of the bond transferred, and his post-office address, and every transfer shall be noted on the record. The treasurer shall also report, under oath, to the board, at each regular session, a statement of all bonds sold or exchanged by him since the preceding report, and the date of such sale or exchange, and when exchanged, a list or description of the city indebtedness exchanged therefor, and the amount of accrued interest received by him on such sale or exchange, which latter sum shall be charged to him as money received by him on bond fund, and so entered by him on his books; but such bonds shall not be sold or exchanged for any indebtedness of the city, except by the approval of the board of trustees, or municipal council of said city. So sale shall be made of any such bonds, except to the highest bidder, after advertising bids for the purchase of the same for not less than three weeks, in at least one newspaper published in the county, the right being reserved in such advertisement to reject any or all such bids.

4447. *Tax for payment of bonds—"Bond fund."*

Sec. 4447. The board of trustees, or municipal council, shall cause to be assessed and levied each year, upon the taxable property of the city, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds issued in conformity with the provisions of this chapter, accruing before the next annual levy, and such proportion of the principal that at the end of five years the sum raised from such levies shall equal at least twenty per cent. of the amount of bonds issued; at the end of eight years at least forty per cent. of the amount, and at and before the date of maturity of the bonds shall be equal to the whole amount of the principal and interest; and the money arising from such levies shall be known as the "Bond Fund,"

and shall be used for the payment of bonds and interest coupons, and for no other purpose whatever; and the treasurer shall open and keep in his books a separate and special account thereof, which shall at all times show the exact condition of said bond fund.

4448. *Redemption of bonds.*

SEC. 4448. Whenever the amount in the hands of the treasurer belonging to the bond fund, after setting aside the sum required to pay the interest maturing before the next levy, is sufficient to redeem one or more bonds, he shall notify the owner of such bond or bonds, by advertising in any newspaper published in the county, not less than once a week, for three successive weeks, and in some newspaper of general circulation published in the City of San Francisco, not less than once a week, for three successive weeks, that he is prepared to pay the same, with all interest accrued thereon; and if not presented for payment or redemption within forty days after the first publication of such notice, the interest on such bonds shall cease, and the amount due thereon shall be set aside for its payment whenever presented. All redemptions shall be made in the exact order of their issuance, beginning at the lowest or first number, and the notice herein required shall be directed to the post-office address of the owner, as shown by the record kept in the treasurer's office.

4449. *Proceedings on failure to levy tax.*

SEC. 4449. If the board of trustees, or municipal council, of any city which has issued bonds under the provisions of this chapter, shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the city treasurer, and the payment thereof refused, the owner may file the bond, together with all unpaid coupons, with the county treasurer of the county in which said city is situated, taking his receipt therefor, and the same shall be registered in the office of the county treasurer; and the district attorney shall, as soon as practicable, proceed by mandamus in the proper court, in the name of the owner of the bond, to compel the said tax to be levied in said city, and at a sufficient rate to realize the amount of principal and interest past due and to become due prior to next levy, and the same shall be levied and collected as a part of the county tax, and paid into the county treasury, and passed to the special credit of such city as bond tax, and shall be paid by warrants as the payments mature to the holder of such registered obligations, as shown by the register in the office of the county treasurer, until the same shall be fully satisfied and discharged; any balance then remaining being passed to the general account and credit of said city.

[The last preceding five new sections belong to the new Chapter VI, approved April 27, 1880; Amendments 1880, 105 (Ban. ed. 540); took effect from passage.]

Amendments to the Civil Code.

PRELIMINARY PROVISIONS.

5007. *Holidays.*

SEC. 7. Holidays, within the meaning of this Code, are: Every Sunday, the first day of January, the twenty-second (22d) day of February, the thirtieth (30th) day of May, the fourth day of July, the twenty-fifth (25th) day of December, every day on which an election is held throughout the State, and every day appointed by the president of the United States, or by the governor of this State, for a public fast, thanksgiving, or holiday. If the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, or the twenty-fifth day of December, fall upon a Sunday, the Monday following is a holiday. [*Amendment, approved April 9, 1880; Amendments 1880, 9 (Ban. ed. 188); took effect immediately.*]

PERSONS.

5040. *Powers of persons whose incapacity has been adjudged.*

SEC. 40. After his incapacity has been judicially determined, a person of unsound mind can make no conveyance or other contract, nor delegate any power or waive any right, until his restoration to capacity. But a certificate from the medical superintendent or resident physician of the insane asylum to which such person may have been committed, showing that such person had been discharged therefrom, cured and restored to reason, shall establish the presumption of legal capacity in such person from the time of such discharge. [*Amendment, approved March 30, 1878; Amendments 1877-8, 75; took effect sixtieth day after passage.*]

MARRIAGE.

5069. *Marriage license.*

SEC. 69. All persons about to be joined in marriage must first obtain a license therefor from the county clerk of the county in which the marriage is to be celebrated, showing:

One—The identity of the parties.

Two—Their real and full names, and places of residence.

Three—Their ages.

Four—If the male be under the age of twenty-one, or the female under the age of eighteen years, the consent of the father, mother, or guardian, or of one having the charge of such person, if any such be given; or that such non-aged person has been previously, but is not at the time, married.

For the purpose of ascertaining these facts, the clerk is authorized to examine parties and witnesses on oath, and to receive affidavits, and he must state such facts in the license. If the male be under the age of twenty-one years, or the female be under the age of eighteen, and such person has not been previously married, no license shall be issued by the clerk, unless the consent, in writing,

of the parents of the person under age, or of one of such parents, or of his or her guardian, or of one having charge of such person, be presented to him; and such consent shall be filed by the clerk; provided, that the said clerk shall not issue a license authorizing the marriage of a white person with a negro, mulatto, or Mongolian. [*Amendment, approved April 6, 1880; Amendments 1880, 3 (Ban. ed. 121); took effect immediately.*]

5070. By whom solemnized.

SEC. 70. Marriage may be solemnized by either a justice of the supreme court, judge of the superior court, justice of the peace, priest, or minister of the gospel of any denomination. [*Amendment, approved April 6, 1880; Amendments 1880, 3 (Ban. ed. 122); took effect immediately.*]

5079. Marriage without license.

SEC. 79. When unmarried persons, not minors, have been living together as man and wife, they may, without a license, be married by any clergyman. A certificate of such marriage must, by the clergyman, be made and delivered to the parties, and recorded upon the records of the church of which the clergyman is a representative. No other record need be made. [*New Section, approved February 6, 1878; Amendments 1877-8, 75; took effect from passage.*]

5080. Judicial declaration of incestuous or void marriage.

SEC. 80. Either party to an incestuous or void marriage may proceed, by action in the superior court, to have the same so declared. [*Amendment, approved April 6, 1880; Amendments 1880, 4 (Ban. ed. 122); took effect immediately.*]

5137. Expense of action for divorce.

SEC. 137. When an action for divorce is pending, the court may, in its discretion, require the husband to pay, as alimony, any money necessary to enable the wife to support herself, or her children, or to prosecute or defend the action. When the husband willfully deserts the wife, she may, without applying for a divorce, maintain in the superior court an action against him for permanent support and maintenance of herself, or of herself and children. During the pendency of such action the court may, in its discretion, require the husband to pay, as alimony, any money necessary for the prosecution of the action, and for support and maintenance, and executions may issue therefor, in the discretion of the court. The final judgment in such action may be enforced by the court by such order or orders as, in its discretion, it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court. [*Amendment, approved April 6, 1880; Amendments 1880, 4 (Ban. ed. 122); took effect immediately.*]

ADOPTION.

5226. Proceedings on adoption.

SEC. 226. The person adopting a child, and the child adopted, and the other persons, if within or residents of this State, whose consent is necessary, must appear before the judge of the superior court of the county where the person adopting resides, and the necessary consent must thereupon be signed, and an agreement be executed by the person adopting, to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated. If the persons whose consent is necessary are not within, or are not residents of this State, then their written consent, duly proved or acknowledged according to sections eleven hundred and eighty-two and eleven hundred

and eighty-three of this Code, shall be filed in said superior court at the time of the application for adoption. [*Amendment, approved April 6, 1880; Amendments 1880, 4 (Ban. ed. 122); took effect immediately.*]

GUARDIAN AND WARD.

5243. *Appointment of guardian by court.*

SEC. 243. A guardian of the person or property, or both, of a person residing in this State, who is a minor, or of unsound mind, may be appointed in all cases, other than those named in section two hundred and forty-one, by the superior court, as provided in the Code of Civil Procedure. [*Amendment, approved April 6, 1880; Amendments 1880, 4 (Ban. ed. 123); took effect immediately.*]

5244. *Same.*

SEC. 244. A guardian of the property within this State of a person not residing therein, who is a minor, or of unsound mind, may be appointed by the superior court. [*Amendment, approved April 6, 1880; Amendments 1880, 4; (Ban. ed. 123); took effect immediately.*]

5249. *Duties of guardian of estate.*

SEC. 249. A guardian of the property must keep safely the property of his ward. He must not permit any unnecessary waste or destruction of the real property, nor make any sale of such property without the order of the superior court, but must, so far as it is in his power, maintain the same, with its buildings and appurtenances, out of the income or other property of the estate, and deliver it to the ward at the close of his guardianship in as good condition as he received it. [*Amendment, approved April 6, 1880; Amendments 1880, 5 (Ban. ed. 123); took effect immediately.*]

5253. *Removal of guardian.*

SEC. 253. A guardian may be removed by the superior court for any of the following causes:

1. For abuse of his trust;
 2. For continued failure to perform its duties;
 3. For incapacity to perform its duties;
 4. For gross immorality;
 5. For having an interest adverse to the faithful performance of his duties;
 6. For removal from the State;
 7. In the case of a guardian of the property, for insolvency; or,
 8. When it is no longer proper that the ward should be under guardianship.
- [*Amendment, approved April 6, 1880; Amendments 1880, 5 (Ban. ed. 123); took effect immediately.*]

5258. *Insane persons.*

SEC. 258. A person of unsound mind may be placed in an asylum for such persons, upon the order of the superior court of the county in which he resides, as follows:

1. The court must be satisfied, upon examination in open court, and in the presence of such person, from the testimony of two reputable physicians, that such person is of unsound mind, and unfit to be at large;
2. After the order is granted, the person alleged to be of unsound mind, his or her husband or wife, or relative to the third degree, or any citizen, may demand an investigation before a jury, which must be conducted, in all respects,

as under an inquisition of lunacy. [*Amendment, approved April 6, 1880; Amendments 1880, 5 (Ban. ed. 124); took effect immediately.*]

[As to guardian and ward, see also post, 11,747.]

MASTER AND SERVANT.

5265. *Consent of parents, etc., requisite.*

Sec. 265. Such consent shall be given:

1. By the father of the minor. If he be dead, or be not of legal capacity to give his consent, or if he shall have abandoned or neglected to provide for his family, and such fact be certified by a justice of the peace of the township or county, or sworn to by a credible witness, and such certificate or affidavit be indorsed on the indenture; then,

2. By the mother. If the mother be dead, or be not of legal capacity to give such consent or refusal; then,

3. By the guardian of such infant. If such infant have no parent living, or none in a legal capacity to give consent, and there be no guardian; then,

4. By the supervisors of the county, or any two justices of the peace, or the judge of the superior court of the county;

5. If such minor be an orphan, under the care and control of any orphan asylum in this State, then by the board of managers thereof. [*Amendment, approved April 6, 1880; Amendments 1880, 5 (Ban. ed. 124); took effect immediately.*]

An Act to authorize the managers of orphan asylums to give their consent to the adoption of certain children under their care.

Approved April 1, 1878; 1877-8, 963.

Authorizing managers to consent to adoption of children.

SECTION 1. The managers of the several orphan asylums in this State are hereby authorized and empowered to consent to the adoption of any orphan child, or child abandoned by its parents, in the same manner that parents are by law authorized to consent to the adoption of their children; provided, however, that such orphan child, or child abandoned by its parents, shall have been in the charge and under the management of the managers of such orphan asylum for the period of one year prior to such adoption, and during that period supported wholly at the expense of said asylum.

Sec. 2. This act shall take effect from the date of its passage.

5273. *Deposit of indenture.*

Sec. 273. The counterpart of any indenture executed by any county, or city, or town officers, must be by them deposited in the office of the county clerk. [*Amendment, approved April 6, 1880; Amendments 1880, 6 (Ban. ed. 124); took effect immediately.*]

5276.

An Act relative to apprentices and masters.

Approved April 3, 1876; 1875-6, 842.

[This act was amended in 1880, as follows:]

Minors may be apprenticed, by whom.

Sec. 2. Minors, at or above the age of fourteen years, may be bound by the father, or in case of his death, incompetency, or where he shall have willfully abandoned his family for one year, without making suitable provision for their support, or has become a habitual drunkard, vagrant, etc., then by their mother, or by their legal guardian; and if illegitimate, they may be bound by their mother; and if they have no parent competent to act, and no guardian, they may bind themselves, with the approbation of the superior court of the county where they

reside; but the power of a mother to bind her children, whether legitimate or illegitimate, shall cease upon her subsequent marriage, and shall not be exercised by herself or her husband, at any time during her marriage, without the approval of the superior court of the county wherein she or he resides. [*Amendment, approved April 9, 1880; 1880, 28 (Ban. ed. 177); took effect immediately.*]

Indentures.

SEC. 4. Indentures shall be signed, sealed, and delivered, in duplicate copies, in the presence of all the parties concerned, and when made with the approbation of the superior court, or the judge thereof, in vacation, such approbation shall be certified in writing, indorsed upon each copy of the indenture. One copy of the indenture shall be kept for the use of the minor by his parent or guardian (when executed by them respectively), but when made with the approbation of the court, it shall be deposited in the safe keeping of the clerk of said court for the use of the minor. The other copy shall be held by the master, and delivered up by him to the apprentice at the expiration of his term of service. [*Amendment, approved April 9, 1880; 1880, 28 (Ban. ed. 178); took effect immediately.*]

Same.

SEC. 6. Facts of incapacity, desertion, drunkenness, vagrancy, etc., shall be decided in the said court by a jury, before the indenture shall take effect, and an indorsement on the indenture, under seal of the court, that the charge or charges are proved, shall be sufficient evidence of the mother's power to give such consent; but if the jury do not find the charge or charges to be true, the person at whose instance such proceedings may have been had shall pay all costs attending the same. [*Amendment, approved April 9, 1880; 1880, 28 (Ban. ed. 178); took effect immediately.*]

Superior court may bind.

SEC. 8. When any minor who is poor, homeless, chargeable to the county, or an outcast, has no visible means of obtaining an honest livelihood, it shall be lawful for the said court to bind such apprentice until, if a male, he arrives at the age of twenty-one, and if a female, to the age of eighteen. [*Amendment, approved April 9, 1880; 1880, 28 (Ban. ed. 178); took effect immediately.*]

Obligations of masters.

SEC. 9. It shall be unlawful for any master to remove an apprentice out of this State; and in all indentures by the said court for binding out an orphan, or homeless minor, as an apprentice, there shall be inserted among other covenants a clause to the following effect: That the master to whom such minor shall be bound shall cause the same to be taught to read and write, and the ground rules of arithmetic, and the ratio and proportion, and shall give him requisite instruction in the different branches of his trade or calling, and at the expiration of his term of service shall give him two full new suits of clothes and the sum of fifty dollars, gold; and, if a female, she shall have two fine new suits of clothes and the sum of fifty dollars, gold; the two new suits in either case to be worth at least sixty dollars, gold. [*Amendment, approved April 9, 1880; 1880, 29 (Ban. ed. 178); took effect immediately.*]

Treatment of apprentices.

SEC. 11. Parents and guardians and the said court shall, from time to time, inquire into the treatment of the children bound by them, respectively, or with their approbation; and the judges of the said courts shall be responsible for the charge of indentured apprentices bound by the approbation of their prede-

cessors in office, and defend them from all cruelty, neglect, breach of contract, or misconduct on the part of their masters. [*Amendment, approved April 9, 1880; 1880, 29 (Ban. ed. 178); took effect immediately.*]

Court to hear complaints.

SEC. 13. The superior court shall hear the complaints of apprentices, who reside within the county, against their masters, alleging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging, want of instruction in the different branches of their trade or calling, or that they are in danger of being removed out of the State, or any violation of the indenture of apprenticeship; and the court may hear and determine such cases, and make such order therein as will relieve the party in the future. [*Amendment, approved April 9, 1880; 1880, 29 (Ban. ed. 179); took effect immediately.*]

Court may discharge apprentice.

SEC. 14. The superior court shall have power, where circumstances require it, to discharge an apprentice from his apprenticeship, and in case any money, or other thing, has been paid or contracted to be paid by either party in relation to such apprenticeship, the court shall make such order concerning the same as shall seem just and reasonable. If the apprentice so discharged shall have been originally bound by the superior court, it shall be the duty of the court, if found necessary, again to bind such apprentice, if under age. [*Amendment, approved April 9, 1880; 1880, 29 (Ban. ed. 179); took effect immediately.*]

Action against apprentice for neglect, misdemeanor, etc.

SEC. 16. An apprentice who shall be guilty of any gross misbehavior, or refusal to do his duty, or willful neglect thereof, shall render himself liable to the complaint of the master in the superior court of the county wherein he resides, which complaint shall set forth the circumstances of the case; and to said complaint shall be attached a citation, signed by the clerk of said court, requiring the apprentice, and all persons who have covenanted in his behalf, to appear and answer to such complaint, which complaint and citation shall be served on them in the usual manner of serving civil process. [*Amendment, approved April 9, 1880; 1880, 29 (Ban. ed. 179); took effect immediately.*]

When master removes from this State.

SEC. 20. Whenever any master of an apprentice shall wish to remove out of this State, or to quit his trade or business, he shall appear with his apprentice before the superior court of the proper county, and if the court be satisfied that the master has done justice to the said apprentice for the time he has had charge of the same, such court shall have power to discharge such apprentice from the service of such master, and again bind him, if necessary, to some other person. [*Amendment, approved April 9, 1880; 1880, 30 (Ban. ed. 179); took effect immediately.*]

CORPORATIONS.

5283.

An Act to define co-operative business corporations, and to provide for the organization and government thereof.

Approved April 1, 1878; 1877-8, 883.

Co-operative business corporation defined.

SECTION 1. A co-operative business corporation is a corporation formed for the purpose of conducting any lawful business and of dividing a portion of its profits among persons other than its stockholders. Co-operative business corporations shall be formed under and governed by Division One, Part Four, Title One, of the Civil Code of this State, and when so formed, may, in their

by-laws, in addition to the matters enumerated in section three hundred and three of said Code, provide:

First—For the number of votes to which each stockholder shall be entitled; and,

Second—The amount of profits which shall be divided among persons other than the stockholders, and the manner in which and the persons among whom such division shall be made.

SEC. 2. This act shall be in force from and after its passage.

5290. Articles of incorporation, what to contain.

SEC. 290. Articles of incorporation must be prepared setting forth:

First—The name of the incorporation.

Second—The purpose for which it is framed.

Third—The place where its principal business is to be transacted.

Fourth—The term for which it is to exist, not exceeding fifty years.

Fifth—The number of its directors or trustees, which shall not be less than five nor more than eleven, and the names and residence of those who are appointed for the first year; provided, that the corporate powers, business, and property of corporations formed or to be formed for the purpose of erecting and managing halls and buildings for the meetings and accommodation of several lodges or societies of any benevolent or charitable order or organization, and in connection therewith the leasing of stores and offices in such building or buildings for other purposes, may be conducted, exercised, and controlled by a board of not less than five nor more than fifty directors, to be chosen from among the stockholders of such corporation, or from among the members of such order or organization; and provided, also, that at any time during the existence of corporations for profit, other than those of the character last hereinabove provided for, the number of the directors may be increased or diminished by a majority of the stockholders of the corporation to any number not exceeding eleven nor less than five, who must be members of the corporation, whereupon a certificate, stating the number of directors, must be filed, as provided for in section two hundred and ninety-six for the filing of the original articles of incorporation.

Sixth—The amount of its capital stock, and the number of shares into which it is divided.

Seventh—If there is a capital stock, the amount actually subscribed, and by whom. [*Amendment, approved April 16, 1880; Amendments 1880, 11 (Ban. ed. 335); took effect immediately.*]

5299. Filing articles of incorporation.

SEC. 299. No corporation hereafter formed shall purchase, locate, or hold property in any county of this State, without filing a copy of the copy of its articles of incorporation filed in the office of the secretary of State, duly certified by such secretary of State, in the office of the county clerk of the county in which such property is situated, within sixty days after such purchase or location is made. Every corporation now in existence, whether formed under the provisions of this Code or not, must, within ninety days after the passage of this section, file such certified copy of the copy of its articles of incorporation in the office of the county clerk of every county in this State in which it holds any property (except the county where the original articles of incorporation are filed); and if any corporation hereafter acquire any property in any county other than that in which it now holds property, it must, within ninety days

thereafter, file with the clerk of such county such certified copy of the copy of its articles of incorporation. The copies so filed with the several county clerks, and certified copies thereof, shall have the same force and effect in evidence as would the originals. Any corporation failing to comply with the provisions of this section shall not maintain or defend any action or proceeding in relation to such property, its rents, issues, or profits, until such articles of incorporation, and such certified copy of its articles of incorporation, and such certified copy of the copy of its articles of incorporation shall be filed at the places directed by the general law and this section; provided, that all corporations shall be liable in damages for any and all loss that may arise by the failure of such corporation to perform any of the foregoing duties within the time mentioned in this section; and provided further, that the said damages may be recovered in an action brought in any court of this State of competent jurisdiction, by any party or parties suffering the same. [*Amendment, approved April 23, 1880; Amendments 1880, 13 (Ban. ed. 403); took effect immediately.*]

5300. Capital stock of banking corporations.

Sec. 300. Every corporation that has been or may be created under the general laws of this State, doing a banking business therein, and which has no capital stock, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner as corporations formed under the provisions of Chapter One, Article One, of the Civil Code, relating to the formation of corporations; provided, that no such corporation shall use or convert any moneys or funds theretofore belonging to it, or under its control, into capital stock; but such funds or moneys must be held and managed only for the purposes and in the manner for which they were created. Before such change is made, a majority of the members of such corporation present at a meeting called for the purpose of considering the proposition whether it is best to have a capital stock, its amount, and the number of shares into which it shall be divided, must vote in favor of having a capital stock, fix the amount thereof, and the number of shares into which it shall be divided. Notice of the time and place of holding such meeting, and its object, must be given by the president of such corporation, by publication in some newspaper printed and published in the county, or city and county, in which the principal place of business of the corporation is situated, at least once a week for three successive weeks prior to the holding of the meeting. A copy of the proceedings of this meeting, giving the number of persons present, the votes taken, the notice calling the meeting, the proof of its publication, the amount of capital actually subscribed, and by whom, all duly certified by the president and secretary of the corporation, must be filed in the offices of the secretary of State and clerk of the county where the articles of incorporation are filed. Thereafter such corporation is possessed of all the rights and powers, and is subject to all the obligations, restrictions, and limitations, as if it had been originally created with a capital stock; and provided further, that no bank in this State shall ever pay any dividend upon so called guaranty notes, nor upon any stock, except upon the amount actually paid in money into said capital upon such stock, and any payment made in violation of this provision shall render all officers and directors consenting to the same jointly and severally liable to the depositors to the extent thereof. [*New Section, approved March 29, 1878; Amendments 1877-8, 77; took effect sixtieth day after passage.*]

5307. Elections; how conducted.

Sec. 307. All elections must be by ballot, and every stockholder shall have

the right to vote in person or by proxy the number of shares standing in his name, as provided in section three hundred and twelve of this Code, for as many persons as there are directors to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit. In corporations having no capital stock, each member of the corporation may cast as many votes for one director as there are directors to be elected, or may distribute the same among any or all of the candidates. In either case, the directors receiving the highest number of votes shall be declared elected. [*Amendment, approved February 1, 1878; Amendments 1877-8, 78; took effect sixtieth day after passage.*]

5312. *Majority of stock must be represented.*

SEC. 312. At all elections, or votes had for any purpose, there must be a majority of the subscribed capital stock, or of the members, represented either in person or by proxy in writing. Every person acting therein (in person, or by proxy, or representative) must be a member thereof, or a bona fide stockholder, having stock in his own name on the stock books of the corporation at least ten days prior to the election. Any vote or election had other than in accordance with the provisions of this article is voidable at the instance of absent (or any) stockholders or members, and may be set aside by petition to the district court of the county where the same is held. Any regular or called meeting of the stockholders or members may adjourn from day to day, or from time to time, if, for any reason, there is not present a majority of the subscribed stock or members, or no election had, such adjournment and the reasons therefor being recorded in the journal of proceedings of the board of directors. [*Amendment, approved February 1, 1878; Amendments 1877-8, 79; took effect from passage.*]

5315. *Complaints and proceedings regarding elections.*

SEC. 315. Upon the application of any person, or body corporate, aggrieved by any election held by any corporate body, the district court of the district in which such election is held must proceed forthwith to hear the allegations and proofs of the parties, or otherwise inquire into the matters of complaint, and thereupon confirm the election, order a new one, or direct such other relief in the premises as accords with right and justice. Upon filing the petition, and before any further proceedings are had under this section, five days' notice of the hearing must be given, under the direction of the court, or the judge thereof, to the adverse party, or those to be affected thereby. [*Amendment, approved April 1, 1878; Amendments 1877-8, 79; took effect from passage.*]

5321.

An Act to protect stockholders and persons dealing with corporations in this State.

Approved March 29, 1878; 1877-8, 695.

Frauds and misrepresentations; penalty for.

SECTION 1. Any superintendent, director, secretary, manager, agent, or other officer, of any corporation formed or existing under the laws of this State, or transacting business in the same, and any person pretending or holding himself out as such superintendent, director, secretary, manager, agent, or other officer, who shall willfully subscribe, sign, indorse, verify, or otherwise assent to the publication, either generally or privately, to the stockholders or other persons dealing with such corporation, or its stock, any untrue or willfully and fraudulently exaggerated report, prospectus, account, statement of operations,

values, business, profits, expenditures, or prospects, or other paper or document intended to produce or give, or having a tendency to produce or give, to the shares of stock in such corporation a greater value, or less apparent or market value than they really possess, or with the intention of defrauding any particular person or persons, or the public, or persons generally, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in the State prison or a county jail not exceeding two years, or by fine not exceeding five thousand dollars, or by both; provided, that this act shall be construed to apply only to corporations whose capital stock has been or shall hereafter be listed at a stock board or stock exchange in this State, or whose shares be regularly bought and sold in the stock market of this State.

5327. *Contracts to relieve directors from liabilities fixed by constitution void.*

SEC. 327. Any contract or contracts, verbal or written, hereafter made, whereby it is sought directly or indirectly to relieve any director or trustee of any corporation or joint stock association from any liability imposed by section three, of article twelve, of the constitution of California, are hereby declared to be and shall be null and void. [*New Section, approved April 12, 1880; Amendments 1880, 9 (Ban. ed. 202); took effect immediately.*]

An Act imposing a tax on the issue of certificates of stock corporations.

Approved April 1, 1878; 1877-8, 955.

Fee allowed.

SECTION 1. It shall be lawful for the secretary of every corporation in the State of California to demand and receive of any person requiring the issue to him of any certificate of stock in such corporation, a fee of ten cents in coin for each certificate, whether such certificate be the original issue or an issue on transfer, and such certificate shall not be delivered by the secretary until such fee shall be paid.

Duty of secretary.

SEC. 2. It shall be the duty of the secretary of every such corporation, on the first Monday in January, April, July, and October, of each year, to make returns, under oath, to the tax collector, or officer acting as tax collector, of the number of certificates issued by the corporation of which he is secretary, during the quarter preceding, and pay to such tax collector the sum of ten cents in coin for each and every certificate so issued by said corporation, except that in the City and County of San Francisco such returns and payments shall be made to the license collector, or officer engaged in the collection of licenses in said city and county.

Examination of secretary and books.

SEC. 3. Such tax collector, or license collector, is hereby authorized and empowered to examine such secretary, under oath, as to the truth of said returns, and to examine, if necessary, the books of such corporation, so far as they relate to the transfer of stock, or issue of certificates, and if the returns are not correct, then he is authorized to commence an action against such corporation in any court of competent jurisdiction, in the name of the people of the State of California, for a penalty of one hundred dollars for each certificate issued by such corporation and not so returned under oath, and several penalties may be joined in such action.

Perjury.

SEC. 4. Any persons violating the provisions of section two of this act shall

be deemed guilty of a misdemeanor, and false swearing to any return provided in section two shall be deemed perjury.

Disposal of moneys collected.

SEC. 5. All moneys collected under the provisions of this act shall be paid by such tax collector, or license collector, into the county treasury, and shall become a part of the general fund, or if there shall in any county be no general fund, then the same shall become a part of such fund as the board of supervisors may direct.

SEC. 6. This act shall take effect on the first Monday in April, 1878.

5419. *Certain insurance companies to have a capital stock of at least two hundred thousand dollars.*

SEC. 419. Every company, corporation, or association hereafter formed or organized under the laws of this State, for the transaction of business in fire, marine, inland navigation, or life insurance, must have a subscribed capital stock equal to at least two hundred thousand dollars, twenty-five per cent. of which must be paid in previous to the issuance of any policy, and the residue within twelve months from the day of filing the certificate of incorporation. No person, corporation, or association, organized or formed under the laws of any other State or country as a stock company, must transact any such insurance business in this State, unless such person, corporation, or association has a paid-up capital stock equal to at least two hundred thousand dollars in available cash assets, over and above all liabilities for losses reported, expenses, taxes, and reinsurance of all outstanding risks, as provided in section six hundred and two of the Political Code of this State. Nor must any person, corporation, or association, organized or formed under the laws of any other State or country as a mutual insurance company, transact any such insurance business in this State, unless such person, corporation, or association possesses available cash assets equal to at least two hundred thousand dollars over and above all liabilities for losses reported, expenses, taxes, and reinsurance of all outstanding risks, as provided in said section six hundred and two of the Political Code of this State. [*Amendment, approved April 1, 1878; Amendments 1877-8, 80; took effect from passage.*]

5420. *Certain insurance companies to have capital stock of at least one hundred thousand dollars.*

SEC. 420. Every company, corporation, or association, hereafter formed or organized under the laws of this State, for the transaction of business in any kind of insurance not enumerated in section four hundred and nineteen of the Civil Code, must have a subscribed capital stock equal to at least one hundred thousand dollars, which must be paid in at the times and in the manner prescribed for the payment of the capital stock of a corporation organized under section four hundred and nineteen of said Civil Code. No company, corporation, or association, formed or organized under the laws of any other State or country as a stock company, must transact any such insurance business in this State without a paid-up capital stock of not less than one hundred thousand dollars, in available cash assets, over and above all liabilities for losses reported, expenses, taxes, and reinsurance of all outstanding risks, as provided in section six hundred and two of the Political Code of this State. Nor must any company, corporation, or association, formed or organized under the laws of any other State or country as a mutual insurance company, transact any such insurance business in this State, unless such company, corporation,

or association possesses available cash assets equal to at least one hundred thousand dollars over and above all liabilities for losses reported, expenses, taxes, reinsurance of all outstanding risks, as provided in said section six hundred and two of the Political Code of this State. [*New Section, approved April 1, 1878; Amendments 1877-8, 80; took effect from passage.*]

5427. *Funds may be invested, how.*

SEC. 427. Corporations hereafter organized under the laws of this State, for the transaction of business in any kind of insurance, may invest their capital and accumulations in the following named securities:

One—In the purchase of, or loans upon, interest-bearing bonds of the United States government.

Two—In the purchase of, or loans upon, interest-bearing bonds of any of the States of the United States not in default for interest on such bonds.

Three—In the purchase of, or loans upon, interest-bearing bonds of any of the countries and incorporated cities and towns of the State of California not in default for interest on such bonds.

Four—In loans upon unincumbered real property, or upon merchandise in warehouse, worth at least one hundred per cent. more than the amount loaned. But no investment in the securities named in subdivisions one, two, and three, of this section, must be made in amount exceeding the par value of such securities, nor exceeding their market value. [*Amendment, approved April 1, 1878; Amendments 1877-8, 81; took effect from passage.*]

5429. *Amounts to be reserved before making dividends.*

SEC. 429. No corporation, formed hereafter under the laws of this State and transacting fire, marine, inland navigation insurance business, or insurance provided for by section four hundred and twenty of this Code, must make any dividends, except from profits remaining on hand after retaining unimpaired—

One—The entire subscribed capital stock.

Two—All the premiums received or receivable on outstanding marine or inland risks, except marine time risks.

Three—A fund equal to one half of the amount of all premiums on all other risks not terminated at the time of making such dividend.

Four—A sum sufficient to pay all losses reported, or in course of settlement, and all liabilities for expenses and taxes. [*Amendment, approved April 1, 1878; Amendments 1877-8, 81; took effect from passage.*]

5431. *Same.*

SEC. 431. No corporation, formed under the laws of this State, and transacting life insurance business, must make any dividends, except from profits remaining on hand after retaining unimpaired—

One—The entire capital stock.

Two—A sum sufficient to pay all losses reported, or in course of settlement, and all liabilities for expenses and taxes.

Three—A sum sufficient to reinsure all outstanding policies, as ascertained and determined upon the basis of the American Experience Table of Mortality, and interest at the rate of four and one half per cent. per annum. [*New Section, approved April 1, 1878; Amendments 1877-8, 81; took effect from passage.*]

5450. *Policies issued within State, what to contain.*

SEC. 450. Every contract or policy of insurance hereafter made by any person or corporation organized under the laws of this State, or under those of any other State or country, with and upon the life of a resident of this State,

and delivered within this State, shall contain, unless specifically contracted between the insurer and the insured for tontine insurance, or for other term or paid up insurance, a stipulation that when, after three full annual premiums shall have been paid on such policy, it shall cease or become void solely by the non-payment of any premium when due, its entire net reserve, by the American Experience Mortality, and interest at four and one half per cent. yearly, less any indebtedness to the company on such policy, shall be applied by such company as a single premium, at such company's published rates in force at the date of original policy, but at the age of the insured at time of lapse, either to the purchase of non-participating term insurance for the full amount insured by such policy, or upon the written application by the owner of such policy, and the surrender thereof to such company within three months from such non-payment of premium, to the purchase of a non-participating paid up policy, payable at the time the original policy would be payable if continued in force; both kinds of insurance to be subject to the same conditions, except as to payment of premiums, as those of the original policy. It may be provided, however, in such stipulation, that no part of such term insurance shall be due or payable, unless satisfactory proofs of death be furnished to the insuring company within one year after death, and that, if death shall occur within three years after such non-payment of premium, and during such term of insurance, there shall be deducted from the amount payable the sum of all the premiums that would have become due on the original policy if it had continued in force. If the reserve on endowment policies be more than enough to purchase temporary insurance, as aforesaid, to the end of the endowment term, the excess shall be applied to the purchase of pure endowment insurance, payable at the end of the term, if the insured be then living. If any life insurance corporation or company shall deliver to any person in this State a policy of insurance upon the life of any person residing in this State, not in conformity with the provisions of this section, the right of such corporation or company to transact business in this State shall thereupon and thereby cease and terminate, and the insurance commissioner shall immediately revoke the certificate of such corporation or company authorizing it to do business in this State, and publish such revocation, daily, for the period of two weeks, in two daily newspapers, one published in the City of San Francisco, and the other in the City of Sacramento. [*Amendment, approved April 26, 1880; Amendments (to Pol. Code) 1880, 91 (Ban. ed. 519); took effect sixtieth day after passage; repealed conflicting acts.*]

5451.

[Secs. 451 and 452, relating to payment and cancellation of policy and determination of net value of policy, were repealed by act of April 26, 1880; Amendments, 1880, 92 (Ban. ed. 520); took effect sixtieth day after passage.]

An Act to provide for the incorporation of mutual insurance companies, for the insurance of life and health, and against accidents.

Approved April 2, 1886; 1886-8, 752.

[This act was amended in 1880 as follows;]

Capital stock.

SEC. 8. Every company formed or existing under this act shall have a capital stock of not less than one hundred thousand dollars. It shall not make any insurance, nor transact any business until its capital stock shall have been fully paid up in cash. The board of directors of the company, or a committee of the directors appointed by the board, shall, without delay, after organizing, proceed to obtain the subscriptions required to complete the capital stock of the

company, and in obtaining such subscription, or any subscriptions to capital stock afterwards authorized, must open books therefor, giving public notice thereof, if deemed necessary by them, in some newspaper of general circulation in the county in which the principal office of the company is located; such books shall, in either case, be kept open until the amount of capital stock required shall have been subscribed. If more than the requisite amount is subscribed, the stock shall be distributed pro rata among the subscribers. Any subscription may be rejected by the board of directors, or the committee thereof, or by either, as to the whole or any part thereof, and shall be, so far as rejected, without effect. [*Amendment, approved April 26, 1880; 1880, 229 (Ban. ed. 552); took effect from passage; affects only corporations formed before 1873.*]

Return of guarantee notes.

SEC. 9. Any corporation formed or existing under this act may, at any time, return to the makers, their assigns or heirs, the guarantee notes held by said corporation; and from and after such return, or the offer thereof, made in good faith, the corporation shall not be subject to any of the obligations or burdens imposed by section ten of said act upon said corporation, and in favor of the makers of such notes. [*Amendment, approved April 26, 1880; 1880, 230 (Ban. ed. 523); took effect from passage; affects only corporations formed before 1873.*]

Impaired capital—Assessment.

SEC. 10. Whenever, at any time, the capital of any corporation formed or existing under this act shall become impaired, it shall be the duty of the board of directors at once to levy such an assessment upon the capital stock, whether paid up or not, as may be necessary to make good such impairment; and such assessment, except as to the amount thereof, shall be levied and collected in the manner prescribed by sections three hundred and thirty-one to three hundred and forty-nine, inclusive, of the Civil Code of this State. Every such corporation may increase or diminish its capital stock in the mode and manner prescribed by section three hundred and fifty-nine of said Civil Code. [*Amendment, approved April 26, 1880; 1880, 230 (Ban. ed. 523); took effect from passage; affects only corporations formed before 1873.*]

[The act of April 26, 1880, from which the foregoing three amendments were taken, contained the following additional section:]

Construction of act.

SEC. 4. Nothing in this act shall be construed to affect any corporation formed after twelve o'clock noon, on the day upon which the Civil Code of California took effect, nor shall anything in this act be construed to revive or put in force any part of the act of which it is amendatory, beyond what was intended should be in force by the provisions of section two hundred and eighty-eight of the Civil Code of California.

5456. Railroad corporations may borrow money and issue bonds.

SEC. 456. Railroad corporations may borrow, on the credit of the corporation, and under such regulations and restrictions as the directors thereof, by unanimous concurrence, may impose, such sums of money as may be necessary for constructing and completing their railroad, and may issue and dispose of bonds or promissory notes therefor, in denominations of not less than five hundred dollars, and at a rate of interest not exceeding ten per cent. per annum; and may also issue bonds or promissory notes of the same denomination and rate

of interest in payment of any debts or contracts for constructing and completing their road, with its equipments and all else relative thereto, and for the purchase of railroads and other property within the purposes of the corporation. The amount of bonds, or promissory notes, issued for such purposes, must not exceed in all the amount of their capital stock; and to secure the payment of such bonds or notes they may mortgage their corporate property and franchises, or may secure the payment of such bonds or notes by deed of trust of their corporate property and franchises. Any person or corporation formed under the laws of this State, or of any other State within the United States, that the directors of the railroad corporation may by unanimous concurrence select, may be trustees in such deed of trust. [*Amendment, approved April 15, 1880; Amendments 1880, 10 (Ban. ed. 211); took effect immediately.*]

5471.

[Sec. 5471, relating to railroads, other than street railroads, in cities charging fare to and from points in such cities, was repealed by act of April 1, 1878; Amendments 1877-8, 84; took effect immediately.]

5491.

An Act to enable railroad companies to complete their railroads.

Approved April 1, 1878; 1877-8, 944.

Authorizing construction of railroads.

SECTION 1. Every railroad company heretofore organized under the laws of this State, and which has completed a portion of its road prior to the passage of this act, is hereby authorized and empowered to complete its road as described in its articles of incorporation, notwithstanding it may not have begun the construction of its road within two years after filing its original articles of incorporation, and notwithstanding it may not have completed and put in operation five miles of its road each year thereafter.

SEC. 2. This act shall take effect from and after its passage.

An Act permitting and authorizing railway and other corporations, organized under the laws of this State, or of any State or Territory of the United States of America, or any act of congress of the United States of America, to do business in this State on equal terms.

Approved April 3, 1880; 1880, 21 (Ban. ed. 114).

Equal terms for all railway corporations.

SECTION 1. That every railway corporation, and every corporation organized for the purpose of carrying freights or passengers, which has or may be created or organized under or by virtue of any of the laws of any State or Territory of the United States of America, or any act of congress of the United States of America, may hereafter build railways, exercise the right of eminent domain, and do or transact any other business which such corporation might if the same had been created or organized under or by virtue of the laws of this State, having the same rights, privileges, and immunities, and subject to the same laws, penalties, and obligations, and burdens, as though said corporations had been created by or organized under the laws of the State of California.

Railroad corporations may contract with one another.

SEC. 2. Railroad corporations doing business in this State and organized under any law of this State, or the United States, or of any State or Territory thereof, have power to enter into contracts with one another, whereby the one may lease of the other the whole or any part of its railroad, or may acquire of

the other the right to use, in common with it, the whole or any part of its railroad.

SEC. 3. All laws inconsistent with this act are hereby repealed.

An Act to compel railroad corporations, or individuals owning railroads, to operate their roads.

Approved April 15, 1880; 1880, 43 (Ban. ed. 205).

Operation of railroads, or forfeiture.

SECTION 1. From and after the completion of any railroad, or the completion of such portion thereof capable of being operated, it shall be the duty of the corporation, or individual owning the same, to operate it; and upon the failure of said corporation or individual so owning said road to keep the same, or any part thereof, in full operation for the period of six months, its or his right to operate the same in whole or in part, as the case may be, shall be forfeited; and the lands occupied for the purposes of its or his road, so far as the same shall not be operated, shall revert to the original owners, or their successors in interest. A railroad shall be deemed to be in full operation when one passenger train, or one mixed train, is run over it once each day in each direction and a sufficient number of freight trains to accommodate the traffic on said road.

Prevention of operation.

SEC. 2. This act shall not be construed to apply to a case where the operation of the road is prevented by the act of God, nor to a case where the operation of said road, together with its branch or trunk lines, does not yield income sufficient to defray the expenses of maintaining and operating the same in connection with its said branch or trunk lines.

Duty of railroad commissioners.

SEC. 3. The railroad commissioners of the State of California shall have the power to examine and determine the question whether said road, together with its said branch and trunk lines, does or does not yield income sufficient to operate the same.

SEC. 4. This act shall take effect immediately.

An Act to create the office of commissioner of transportation, and to define its powers and duties; to fix the maximum charges for transporting passengers and freights on certain railroads; and to prevent extortion and unjust discrimination thereon.

Approved April 1, 1876; 1877-8, 969.

[This act, which repealed the previous act of similar character of April 3, 1876; 1875-6, 783, was superseded by the operation of the constitution adopted in May, 1879. The following act of 1880 was intended to put the provisions of the constitution in reference to the subject into operation.]

An Act to organize and define the powers of the board of railroad commissioners.

Approved April 15, 1880; 1880, 45 (Ban. ed. 207).

"Board of Railroad Commissioners."

SECTION 1. The three persons elected railroad commissioners, pursuant to the provisions of section twenty-two, of article twelve, of the Constitution of this State, constitute, and shall be known and designated as the "Board of Railroad Commissioners of the State of California." They shall have power to elect one of their number president of said board, to appoint a secretary, to appoint a bailiff, who shall perform the duties of janitor; also, to employ a stenographer, whenever they may deem it expedient.

Salaries—Expenses.

SEC. 2. The salary of each commissioner shall be four thousand dollars per annum; the salary of the secretary shall be twenty-four hundred dollars per annum; the salary of the bailiff shall be twelve hundred dollars per annum, such salaries to be paid by the State of California in the same manner as the salaries of State officers are paid. The stenographer shall receive a reasonable compensation for his services, the amount to be fixed by the State board of examiners, and paid by the State. Said commissioners, and the persons in their official employment when traveling in the performance of their official duties, shall have their traveling expenses other than transportation paid, the amounts to be passed on by the State board of examiners, and paid by the State. Said board of railroad commissioners shall be allowed one hundred dollars per month for office rent, and fifty dollars per month for fuel, lights, postage, expressage, subscription to publications upon the subject of transportation, and other incidental expenses, to be paid by the State; provided, that all moneys remaining unexpended at the expiration of each fiscal year shall be returned to the State treasury. Said board is further authorized to expend not to exceed four hundred dollars for office furniture and fixtures, to be paid by the State. The State shall furnish said board with all necessary stationery and printing, upon requisitions signed by the president of said board.

Free passes.

SEC. 3. Said commissioners and the persons in their official employment, shall, when in the performance of their official duties, have the right to pass free of charge on all railroads, steamers, ships, vessels, and boats, and on all vehicles employed in or by any railroad or other transportation company engaged in the transportation of freight and passengers within this State.

Duties of attorney-general and district attorney.

SEC. 4. It shall be the duty of the attorney-general, and the district attorney in every county, on request of said board, to institute and prosecute, and to appear and to defend for said board, in any and all suits and proceedings which they or either of them shall be requested by said board to institute and prosecute, and to appear in all suits and proceedings to which the board is a party, shall have precedence over all other business except criminal business; provided, that said board shall have the power to employ additional counsel to assist said attorney-general, or said district attorney, or otherwise, when in their judgment the exigencies of the case may so require. The fees and expenses of said additional counsel to be determined by the State board of examiners, and paid by the State.

Location of office.

SEC. 5. The office of said board shall be in the City of San Francisco. Said office shall always be open (legal holidays and non-judicial days excepted). The board shall hold its sessions at least once a month in said City of San Francisco, and at such other times and such other places within this State as may be expedient. The sessions of said board shall be public, and when held at a place other than the office in the City of San Francisco, notice thereof shall be published once a week for two successive weeks before the commencement of such session, in a newspaper published in the County where such session is to be held; and if no newspaper is published in such county, then in a newspaper published in an adjacent county. Such publication to be paid by the State in the manner as other publications authorized by law are paid.

Seal.

SEC. 6. The board shall have a seal, to be devised by its members, or a majority thereof. Such seal shall have the following inscription surrounding it: "Railroad Commission, State of California." The seal shall be affixed only to, first, writs; second, authentications of a copy of a record or other proceeding, or copy of a document on file in the office of said commission.

Powers of board.

SEC. 7. The process issued by said board shall extend to all parts of the State. The board shall have power to issue writs of summons and of subpoena in like manner as courts of record. The summons shall direct the defendant to appear and answer within fifteen days from the day of service. The necessary process issued by the board may be served in any county in this State by the bailiff of the board, or by any person authorized to serve process of courts of record.

Powers of officers.

SEC. 8. The secretary of said board shall issue all process and notices required to be issued, and do and perform such other duties as the board may prescribe. The bailiff shall preserve order during the sessions of said board, and shall have authority to make arrests for disturbances. He shall also have authority, and it shall be his duty, to serve all process, orders, and notices issued by said board when directed by the president, and make return of the same.

Complaints and decisions to be in writing.

SEC. 9. All complaints before said board shall be in writing and under oath. All decisions of said board shall be given in writing, and the grounds of the decisions shall be stated. A record of the proceedings of said board shall be kept, and the evidence of persons appearing before said board shall be preserved.

When may sue.

SEC. 10. Whenever the board shall render any decision within the purview and pursuant to the authority vested in said board by section twenty-two, of article twelve, of the constitution, said board, or the person, copartnership, company, or corporation making the complaint upon which such decision was rendered, is authorized to sue upon such decision in any court of competent jurisdiction in this State.

Rates.

SEC. 11. Whenever said board, in the discharge of its duties, shall establish or adopt rates of charges for the transportation of passengers and freight, pursuant to the provisions of the constitution, said board shall serve a printed schedule of such rates, and of any changes that may be made in such rates, upon the person, copartnership, company, or corporation affected thereby; and upon such service, it shall be the duty of such person, copartnership, company, or corporation, to immediately cause copies of the same to be posted in all its offices, station houses, warehouses, and landing offices affected by such rates, or change of rates, in such manner as to be accessible to public inspection during usual business hours. Said board shall also make such further publication thereof as they shall deem proper and necessary for the public good. If the party to be served, as heretofore provided, be a corporation, such service may be made upon the president, vice-president, secretary, or managing agent thereof, and if a copartnership, upon any partner thereof. The rates of charges established or adopted by said board, pursuant to the constitution and this act,

shall go into force and effect on the twentieth day after service of said schedule of rates, or changes in rates, upon the person, copartnership, company, or corporation affected thereby, as hereinbefore provided.

Jurisdiction.

SEC. 12. When jurisdiction is, by the constitution, conferred on the board of railroad commissioners, all the means necessary to carry it into effect are also conferred on said board, and when in the exercise of jurisdiction within the purview of the authority conferred on said board by the constitution the course of proceeding be not specifically pointed out, any suitable process or mode of proceeding may be adopted by the board which may appear most conformable to the spirit of the constitution.

Demand from transportation commissioner, under Act of April 1, 1878.

SEC. 13. The said board shall, immediately after entering upon the performance of its duties, demand and receive from the transportation commissioner, appointed under an act approved April first, eighteen hundred and seventy-eight, section nine, chapter one, all public property belonging to the office of said transportation commissioner, in his possession, or under his control, and it is hereby made his duty to deliver the same to the said board.

Definition of term "transportation companies."

SEC. 14. The term "transportation companies" shall be deemed to mean and include: -

First—All companies owning and operating railroads (other than street railroads) within this State.

Second—All companies owning and operating steamships engaged in the transportation of freight or passengers from and to ports within this State.

Third—All companies owning and operating steamboats used in transporting freight or passengers upon the rivers or inland waters of this State.

The word "company," as used in this act, shall be deemed to mean and include corporations, associations, partnerships, trustees, agents, assignees, and individuals. Whenever any railroad company owns and operates in connection with its road and for the purpose of transporting its cars, freight, or passengers, any steamer or other water craft, such steamer or other water craft shall be deemed part of its said road. Whenever any steamship or steamboat company owns and operates any barge, canal boat, steamer, tug, ferry boat, or lighter, in connection with its ships or boats, the things so owned and operated shall be deemed to be part of its main line.

Salaries, how paid.

SEC. 15. The salaries of the commissioners, secretary, bailiff, and all other officers and attachés in any manner employed by the board of commissioners, and all expenses of every kind created under this act, shall be paid out of any money in the general fund not otherwise appropriated, and the controller of State is hereby authorized and directed to draw his warrants from time to time for such purposes, and the State treasurer is hereby authorized and directed to pay the same.

SEC. 16. This act shall take effect immediately.

5501.

An Act to limit and fix the rates of fares on street railroads in cities and towns of more than one hundred thousand inhabitants.

Approved January 1, 1878; 1877-8, 18.

Rates of fare of street railroads.

SECTION 1. No street railroad in any city or town of this State, with more

than one hundred thousand inhabitants, shall be allowed to charge or collect a higher rate of fare than five cents for each passenger per trip of any distance in one direction, either going or coming, along any part of the whole length of the road or its connections.

Violation and forfeiture.

SEC. 2. Every violation of the provisions of section one of this act shall subject the owner or owners of the street railroad violating the same to a forfeiture to the person so unlawfully charged, or paying more than is therein allowed to be charged, the sum of two hundred and fifty dollars for each and every instance when such unlawful charge is made or collected, to be recovered by suit in any court of competent jurisdiction; such causes of action shall be assignable, and the action may be maintained by the assignee in his own name, and several causes of action arising out of unlawful charges or collections from different persons may be vested in the assignee and united in the same action.

SEC. 3. This act shall be in force from its passage.

5587.

An Act for the better protection of the stockholders in corporations, formed under the laws of the State of California, for the purpose of carrying on and conducting the business of mining.

Approved March 30, 1874; 1873-4, 866.

[This act was amended in 1880 as follows:]

Books of mining corporations.

SECTION 1. It shall be the duty of the secretary of every corporation, formed under the laws of this State for the purpose of mining, to keep a complete set of books, showing all receipts and expenditures of such corporation, the sources of such receipts, and the object of such expenditures, and also all transfers of stock. All books and papers shall at all times, during business hours, be open to the inspection of any bona fide stockholder; and if any stockholder shall at any time so request, it shall be the duty of the secretary to attend at the office of said company at least one hour in the day out of regular business hours, and exhibit such books and papers of the company as such stockholder may desire, who shall be entitled to be accompanied by an expert; and he shall also be entitled to make copies or extracts from any such books or papers. It shall be the duty of the directors, on the first Monday of each and every month, to cause to be made an itemized account or balance sheet for the previous month, embracing a full and complete statement of all disbursements and receipts, showing from what sources such receipts were derived, and for what and to whom such disbursements or payments were made, and for what object or purpose the same were made; also all indebtedness or liabilities incurred or existing at the time, and for what the same were incurred, and the balance of money, if any, on hand. Such account or balance sheet shall be verified under oath by the president and secretary, and posted in some conspicuous place in the office of the company. It shall be the duty of the superintendent, on the first Monday of each month, to file with the secretary an itemized account, verified under oath, showing all receipts and disbursements made by him for the previous month, and for what said disbursements were made. It shall also be the duty of the superintendent to file with the secretary a weekly statement, under oath, showing the number of men employed under him and for what purpose, and the rate of wages paid to each one. He shall attach to such account a full and complete report, under oath, of the work done in said mine, the amount of ore extracted, from what part of the mine taken, the amount sent to mill for reduction, its assay value, the amount of bullion received, the

amount of bullion shipped to the office of the company or elsewhere, and the amount, if any, retained by the superintendent. It shall also be his duty to forward to the office of the company a full report, under oath, of all discoveries of ores or mineral-bearing quartz made in said mine, whether by boring, drifting, sinking, or otherwise, together with the assay value thereof. All accounts, reports, and correspondence from the superintendent shall be kept in some conspicuous place in the office of said company, and be open to the inspection of all stockholders. [*Amendment, approved April 23, 1880; 1880, 134 (Ban. ed. 400); took effect from passage; repealed conflicting acts.*]

Examination of grounds.

SEC. 2. Any bona fide stockholder of a corporation formed under the laws of this State for the purpose of mining, shall be entitled to visit, accompanied by his expert, and examine the mine or mines owned by such corporation, and every part thereof, at any time he may see fit to make such visit and examination; and when such stockholder shall make application to the president of such corporation, he shall immediately cause the secretary thereof to issue and deliver to such applicant an order, under the seal of the corporation, directed to the superintendent, commanding him to show and exhibit such parts of said mine or mines as the party named in said order may desire to visit and examine. It shall be the duty of the superintendent, on receiving such order, to furnish such stockholder every facility for making a full and complete inspection of said mine or mines, and of the workings therein; it shall be his duty also to accompany said stockholder either in person, or to furnish some person familiar with said mine or mines to accompany him in his visit to and through such mine or mines, and every part thereof. In case of the failure or refusal of the superintendent to obey such order, such stockholder shall be entitled to recover in any court of competent jurisdiction, against said corporation, the sum of one thousand dollars and traveling expenses to and from said mine as liquidated damages, together with costs of suit. In case of such refusal, it shall be the duty of the directors of such corporation forthwith to remove the officer so refusing, and thereafter he shall not be employed directly or indirectly by such corporation, and no salary shall be paid to him. [*Amendment, approved April 23, 1880; 1880, 135 (Ban. ed. 400); took effect from passage; repealed conflicting acts.*]

Penalty.

SEC. 3. In case of the refusal or neglect of the president to cause to be issued by the secretary the order in the second section of this act mentioned, such stockholder shall be entitled to recover against said president the sum of one thousand dollars and costs, as provided in the last section. In case of the failure of the directors to have the reports and accounts current made and posted as in the first section of this act provided, they shall be liable, either severally or jointly, to an action by any stockholder, in any court of competent jurisdiction, complaining thereof, and on proof of such refusal or failure, such complaining stockholder shall recover judgment for one thousand dollars liquidated damages, with costs of suit. [*Amendment, approved April 23, 1880; 1880, 135 (Ban. ed. 400); took effect from passage; repealed conflicting acts.*]

An Act for the further protection of stockholders in mining companies.

Approved April 23, 1880; 1880, 131 (Ban. ed. 398).

Directors not to sell, etc., unless two thirds of capital stock consent.

SECTION 1. It shall not be lawful for the directors of any mining corporation

to sell, lease, mortgage, or otherwise dispose of the whole or any part of the mining ground owned or held by such corporation, nor to purchase or obtain, in any way, any additional mining ground, unless such act be ratified by the holders of at least two thirds of the capital stock of such corporation. Such ratification may be made either in writing, signed and acknowledged by such stockholders, or by resolution, duly passed at a stockholders' meeting called for that purpose.

Stock to be in name of real owner or trustee.

SEC. 2. All stock in each and every mining corporation in this State shall stand in the books of said company, in all cases, in the names of the real owners of such stock, or in the name of the trustees of such real owners; but in every case where such stock shall stand in the name of a trustee, the party for whom he holds such stock in trust shall be designated upon said books, and also in the body of the certificate of such stock.

Books, when to close—Stock, how voted.

SEC. 3. It shall not be lawful for any such corporation, or the secretary thereof, to close the books of said corporation more than two days prior to the day of any election. At such election the stock of said corporation shall be voted by the bona fide owners thereof, as shown by the books of said corporation, unless the certificate of stock, duly indorsed, be produced at such election, in which case said certificates shall be deemed the highest evidence of ownership, and the holder thereof shall be entitled to vote the same.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect from and after its passage.

5593. Corporations for purposes other than profit, how formed.

SEC. 593. Any number of persons associated together for any purpose where pecuniary profit is not their object, and for which individuals may lawfully associate themselves, may, in accordance with the rules, regulations, or discipline of such association, elect directors, the number thereof to be not less than three nor more than eleven, and may incorporate themselves as provided in this part. [*Amendment, approved April 6, 1880; Amendments 1880, 6 (Ban. ed. 124); took effect immediately.*]

5596. How much land friendly, etc., societies may hold.

SEC. 596. In addition to that provided for in the preceding section, friendly societies and pioneer associations may hold such real estate as may be necessary to carry out their charitable purposes, or for the establishment and endowment of institutions of learning connected therewith. In case any such corporation is the owner, by donation or purchase, of more lands than herein or in preceding section provided for, such surplus must be sold and conveyed by the corporation within five years after its acquisition. Such sale may be made without the order or decree of the superior court as hereinafter provided. [*Amendment, approved April 6, 1880; Amendments 1880, 6 (Ban. ed. 124); took effect immediately.*]

5598. Corporations may, by order of the superior court, sell or mortgage real estate.

SEC. 598. Corporations of the character mentioned in section five hundred and ninety-three, may mortgage or sell real property held by them, upon obtaining an order for that purpose from the superior court held in the county in which the property is situated. Before making the order, proof must be made to the satisfaction of the court that notice of the application for leave to mort-

gage or sell has been given by publication in such manner and for such time as the court or judge has directed, and that it is to the interest of the corporation that leave should be granted as prayed for. The application must be made by petition, and any member of the corporation may oppose the granting of the order by affidavit or otherwise. [*Amendment, approved April 6, 1880; Amendments 1880, 6 (Ban. ed. 125); took effect immediately.*]

5602. *Rules, etc., of religious denominations requiring administration of temporalities.*

SEC. 602. Whenever the rules, regulations, or discipline of any religious denomination, society, or church, require for the administration of the temporalities thereof, and the management of the estate and property thereof, it shall be lawful for the bishop, chief priest, or presiding elder of such religious denomination, society, or church, to become a sole corporation, in the manner prescribed in this title, as nearly as may be, and with all the powers and duties, and for the uses and purposes in this title provided for religious incorporations, and subject to all the conditions, limitations, and provisions in said title prescribed. The articles of incorporation to be filed shall set forth the facts authorizing such incorporation, and declare the manner in which any vacancy occurring in the incumbency of such bishop, chief priest, or presiding elder, is required by the rules, regulations, or discipline of such denomination, society, or church to be filled, which statement shall be verified by affidavit, and for proof of the appointment or election of such bishop, chief priest, or presiding elder, or of any succeeding incumbent of such corporation, it shall be sufficient to record with the clerk of the county in which such bishop, chief priest, or presiding elder resides, the original or a copy of his commission, or certificate, or letters of election, or appointment, duly attested; provided, all property held by such bishop, chief priest, or presiding elder, shall be in trust for the use, purpose, and behoof of his religious denomination, society, or church. The limitation in section five hundred and ninety-five shall not apply to corporations formed under this section when the land is held or used for churches, hospitals, schools, colleges, orphan asylums, parsonages, or cemetery purposes. Any judge of the superior court in the county in which any corporation is formed under this chapter, shall at all times have access to the books of such incorporation. Any corporation sole, heretofore organized and existing under the laws of this state, may elect to continue its existence under this act by filing a certificate to that effect, under its corporate seal and the hand of its incumbent, or amended articles of incorporation, in the form required by the preceding section, as prescribed by section two hundred and eighty-seven (287) of the Civil Code; and from and after the filing of such certificate or amended articles, such corporation shall be entitled to the privileges and subject to the duties, liabilities, and provisions of this act expressed. [*Amendment, approved April 6, 1880; Amendments 1880, 6 (Ban. ed. 125); took effect immediately.*]

[The foregoing sec. 602 was originally a new section added to the Code by act of March 30, 1878; Amendments 1877-8, 84; took effect immediately. That act contains the following additional section:]

Continuance of existence.

SEC. 2. Any corporation sole, heretofore organized and existing under the laws of this State, may elect to continue its existence under this act by filing a certificate to that effect, under its corporate seal and the hand of its incumbent, or amended articles of incorporation, in the form required by the preceding section, as prescribed by section two hundred and eighty-seven (287)

of the Civil Code; and from and after the filing of such certificate, or amended articles, such corporation shall be entitled to the privileges and subject to the duties, liabilities, and provisions of this act expressed.

An Act relating to mutual beneficial and relief associations.

Approved March 28, 1874; 1873-4, 745.

[This act was amended in 1880 as follows:]

Mutual, etc., associations, powers of.

SEC. 4. Such association by its name may sue and be sued, and may loan such funds as it may have on hand, and may own sufficient real estate for its business purposes, and such other real estate as it may be necessary to purchase on foreclosure of its mortgages; provided, such real estate so obtained through foreclosure shall be sold and conveyed within five years from the day title is obtained, unless the superior court of the proper county shall, upon petition and good cause shown, extend the time. [*Amendment, approved April 6, 1880; 1880, 25 (Ben. ed. 128); took effect immediately.*]

5611. *May issue bonds to pay for grounds.*

SEC. 611. Such corporations may issue their bonds, bearing interest not exceeding twelve per cent. per annum, for the purchase of lands for their cemeteries, payable out of the proceeds of the cemetery and not otherwise; sixty per cent. of the proceeds of sales of lots, plats, and graves must be applied at least every three months to the payment of the bonds and interest. Such corporations may also agree with the person or persons from whom cemetery lands shall be purchased to pay for such lands, as the purchase price thereof, any specified share or portion, not exceeding one half, of the proceeds of all sales of lots or plats made from such lands; such payment to be made at such intervals as may be agreed upon. In all cases where cemetery lands shall be purchased and agreed to be paid for in the manner last provided, the prices for lots or plats specified in the by-laws, rules, or regulations first adopted by such association, or prescribed in the agreement between the cemetery and the person or persons from whom the cemetery lands were purchased, shall not be changed without the written consent of a majority in interest of the persons from whom such lands were purchased, their heirs, representatives, or assigns. [*Amendment, approved April 16, 1880; Amendments 1880, 12 (Ban. ed. 376); took effect immediately.*]

TRANSFER.

6160. *Letters patent may be recorded without acknowledgment.*

SEC. 1160. Letters patent from the United States, or from the State of California, executed and authenticated pursuant to existing law, may be recorded without acknowledgment or further proof, and where letters patent have been lost, or are beyond the control of any party deraining title therefrom, or for any reason they remain unrecorded, any person claiming title thereunder may cause a transcript of the copy of such letters patent kept by the government issuing the same, duly certified by the officer or individual having lawful custody of such copy, to be recorded in lieu of the original; and such recorded copy shall have, prima facie, the same force and effect as the original, for title or for evidence, until said original letters patent be recorded. [*Amendment, approved April 1, 1878; Amendments 1877-8, 85; took effect sixtieth day after passage.*]

6180. *By whom acknowledgments may be taken in this State.*

SEC. 1180. The proof or acknowledgment of an instrument may be made at

any place within this State before a justice or clerk of the supreme court, or judge of a superior court. [*Amendment, approved April 3, 1880; Amendments 1880, 2 (Ban. ed. 116); took effect immediately.*]

6181. *Same.*

SEC. 1181. The proof or acknowledgment of an instrument may be made in this State within the city, city and county, county, or district for which the officer was elected or appointed before either:

1. A clerk of a court of record; or,
2. A county recorder; or,
3. A notary public; or,
4. A justice of the peace. [*Amendment, approved April 3, 1880; Amendments 1880, 2 (Ban. ed. 116); took effect immediately.*]

HOMESTEADS.

6241. *When homestead subject to execution.*

SEC. 1241. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

1. Before the declaration of homestead was filed for record, and which constitute liens upon the premises;
2. On debts secured by mechanics', laborers', or vendors' liens upon the premises;
3. On debts secured by mortgages on the premises, executed and acknowledged by the husband and wife, or by an unmarried claimant;
4. On debts secured by mortgages upon the premises, executed and recorded before the declaration of homestead was filed for record. [*Amendment, approved April 6, 1880; Amendments 1880, 7 (Ban. ed. 126); took effect immediately.*]

6245. *Proceedings on execution against homestead.*

SEC. 1245. When an execution for the enforcement of a judgment obtained in a case not within the classes enumerated in section one thousand two hundred and forty-one is levied upon the homestead, the judgment creditor may apply to the superior court of the county in which the homestead is situated, for the appointment of persons to appraise the value thereof. [*Amendment, approved April 6, 1880; Amendments 1880, 7 (Ban. ed. 126); took effect immediately.*]

6247. *Petition, where filed.*

SEC. 1247. The petition must be filed with the clerk of the superior court. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 126); took effect immediately.*]

6265. *Tenure by which homestead is held.*

SEC. 1265. From and after the time the declaration is filed for record, the premises therein described constitute a homestead. If the selection was made by a married person from the community property, the land, on the death of either of the spouses, vests in the survivor, subject to no other liability than such as exists or has been created under the provisions of this title; in other cases, upon the death of the person whose property was selected as a homestead, it shall go to his heirs or devisees, subject to the power of the superior court to assign the same for a limited period to the family of the decedent; but in no case shall it be held liable for the debts of the owner, except as provided in this title. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 126); took effect immediately.*]

WILLS.

6363. *Specific devise or legacy.*

SEC. 1363. In a specific devise or legacy the title passes by the will, but possession can only be obtained from the personal representative; and he may be authorized by the superior court to sell the property devised and bequeathed in the cases herein provided. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 127); took effect immediately.*]

6364. *Heir's conveyance good unless will is proved within four years.*

SEC. 1364. The rights of a purchaser or incumbrancer of real property, in good faith and for value, derived from any person claiming the same by succession, are not impaired by any devise made by the decedent from whom succession is claimed, unless the instrument containing such devise is duly proved as a will, and recorded in the office of the clerk of the superior court having jurisdiction thereof, or unless written notice of such devise is filed with the clerk of the county where the real property is situated, within four years after the devisors death. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 127); took effect immediately.*]

SUCCESSION.

6386. *Succession to and distribution of property.*

SEC. 1386. When any person having title to any estate not otherwise limited by marriage contract dies, without disposing of the estate by will, it is succeeded to and must be distributed, unless otherwise expressly provided in this Code and the Code of Civil Procedure, subject to the payment of his debts, in the following manner:

1. If the decedent leave a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the surviving husband or wife and child, or issue of such child. If the decedent leave a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one third to the surviving husband or wife, and the remainder in equal shares to his children and to the lawful issue of any deceased child by right of representation; but if there be no child of the decedent living at his death, the remainder goes to all of his lineal descendants; and if all the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leave no surviving husband or wife, but leave issue, the whole estate goes to such issue; and if such issue consists of more than one child living, or one child living and the lawful issue of one or more deceased children, then the estate goes in equal shares to the children living, or to the child living, and the issue of the deceased child or children by right of representation.

2. If the decedent leave no issue, the estate goes, one half to the surviving husband or wife, and the other half to the decedent's father and mother, in equal shares, and if either be dead, the whole of said half goes to the other; if there be no father or mother, then one half goes in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister by right of representation. If the decedent leave no issue, nor husband, nor wife, the estate must go to his father and mother, in equal shares, or if either be dead, then to the other.

3. If there be neither issue, husband, wife, father, nor mother, then in equal

shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister by right of representation.

5. If the decedent leave a surviving husband or wife, and neither issue, father, mother, brother, nor sister, the whole estate goes to the surviving husband or wife.

6. If the decedent leave neither issue, husband, wife, father, mother, brother, nor sister, the estate must go to the next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claimed through the nearest ancestors must be preferred to those claiming through an ancestor more remote.

7. If the decedent leave several children, or one child, and the issue of one or more children, and any such surviving child dies under age, and not having been married, all the estate that came to the deceased child by inheritance from such decedent, descends in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by right of representation.

8. If at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from his parents descends to the issue of all other children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation.

9. If the decedent be a widow or widower, and leave no kindred, and the estate, or any portion thereof, was common property of such decedent, and his or her deceased spouse, while such spouse was living, such common property shall go to the father of such deceased spouse, or if he be dead, to the mother. If there be no father nor mother, then such property shall go to the brothers and sisters of such deceased spouse, in equal shares, and to the lawful issue of any deceased brother or sister of such deceased spouse, by right of representation.

10. If the decedent leave no husband, wife, or kindred, and there be no heirs to take his estate, or any portion thereof, under subdivision nine of this section, the same escheats to the State for the support of common schools. [*Amendment, approved April 23, 1880; Amendments 1880, 14 (Ban. ed. 412); took effect from passage.*]

WATER RIGHTS.

6422.

An Act authorizing the boards of supervisors of the counties in which water is sold for the purpose of irrigation, to fix the rates at which water shall be sold.

Approved March 26, 1880; 1880, 16 (Ban. ed. 59).

Supervisors to fix rates.

SECTION 1. The boards of supervisors of the several counties of this State in which water is appropriated, furnished, and sold principally for the purposes of irrigation, are hereby authorized and required to fix the maximum rates at which such water shall be furnished and sold, at a meeting to be held in the month of February of each year; provided, that in the year eighteen hundred and eighty such rates shall be fixed at the first meeting after the passage of this act. The rates so fixed and established shall be in force from and after the first day of July, after the date of fixing said rates, and shall continue in force for the period of one year; provided, that nothing in this section shall

apply to water furnished within the limits of any incorporated city and county, city, or town.

Forfeiture of franchise.

Sec. 2. Any person, company, or corporation collecting rates for water furnished for irrigation in any county in this State in excess of the rates as provided in section one of this act, shall forfeit for the public use the franchise and water-works of such person, company, or corporation to the county in which such excessive rates were charged.

Action to enforce forfeiture.

Sec. 3. Upon affidavit being made by any interested party, setting forth that any such company, person, or corporation has charged rates for water furnished for irrigating purposes in excess of the rates established by the board of supervisors, the said board of supervisors shall cause the district attorney to commence an action in the superior court of the county, within thirty days from the receipt by them of such affidavit, to enforce the forfeiture of the franchise and waterworks of such person, company, or corporation.

To compel the performance of the duties of supervisors.

Sec. 4. If the board of supervisors fail or neglect to fix the rates, as provided in section one of this act, or if the board of supervisors fail or neglect to commence the action provided for in section three of this act, as therein provided, any interested person may commence proceedings to compel the performance of such duties.

Control of use of water prohibited.

Sec. 5. No person, company, or corporation selling water for irrigation, shall be permitted to exercise any control as to the use of the water after its delivery to the purchaser.

Sec. 6. This act shall take effect immediately.

CONTRACTS.

6624. *What contracts must be written.*

Sec. 1624. The following contracts are invalid, unless the same, or some note or memorandum thereof, be in writing, and subscribed by the party to be charged, or by his agent:

First—An agreement that by its terms is not to be performed within a year from the making thereof.

Second—A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section twenty-seven hundred and ninety-four of this Code.

Third—An agreement, made upon consideration of marriage, other than a mutual promise to marry.

Fourth—An agreement for the sale of goods, chattels, or things in action, at a price not less than two hundred dollars, unless the buyer accept or receive part of such goods and chattels, or the evidences, or some of them, of such things in action, or pay at the time some part of the purchase-money; but when a sale is made at auction, an entry by the auctioneer in his sale book, at the time of the sale, of the kinds of property sold, the terms of the sale, the price, and the names of the purchaser and person on whose account the sale is made, is a sufficient memorandum.

Fifth—An agreement for the leasing for a longer period than one year, or for the sale of real property, or for an interest therein; and such agreement, if

made by an agent of the party sought to be charged, is invalid, unless the authority of the agent be in writing, subscribed by the party sought to be charged.

Sixth—An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission. [*Amendment, approved March 9, 1878; Amendments 1877-8, 86; took effect sixtieth day after passage.*]

DEPOSIT.

An Act in relation to warehouse and wharfinger receipts, and other matters pertaining thereto.
Approved April 1, 1878; 1877-8, 949.

6855. *Issuance of receipt for goods.*

SECTION 1. That no warehouseman, wharfinger, or other person, doing a storage business, shall issue any receipt or voucher for any goods, wares, merchandise, grain, or other produce or commodity, to any person or persons purporting to be the owner or owners thereof, unless such goods, wares, merchandise, grain, or other produce or commodity, shall have been bona fide received into store by such warehouseman, wharfinger, or other person, and shall be in store and under his control at the time of issuing such receipt.

Issuing of receipt upon goods as security for money loaned.

SEC. 2. That no warehouseman, wharfinger, or other person engaged in the storage business, shall issue any receipt or other voucher upon any goods, wares, merchandise, grain, or other produce or commodity, to any person or persons, as security for any money loaned, or other indebtedness, unless such goods, wares, merchandise, grain, or other produce or commodity, shall be, at the time of issuing such receipt, the property of such warehouseman, wharfinger, or other person, shall be in store and under control at the time of issuing such receipt or voucher as aforesaid.

Second receipts not to be issued, except, etc.

SEC. 3. That no warehouseman, wharfinger, or other person as aforesaid, shall issue any second receipt for any goods, wares, merchandise, grain, or other produce or commodity, while any former receipt for any such goods or chattels as aforesaid, or any part thereof, shall be outstanding and uncanceled.

Removal of goods when receipt is issued.

SEC. 4. That no warehouseman, wharfinger, or other person as aforesaid, shall sell or incumber, ship, transfer, or in any manner remove beyond his immediate control, any goods, wares, merchandise, grain, or other produce or commodity for which a receipt shall have been given as aforesaid, without the written assent of the person or persons holding such receipt or receipts plainly indorsed thereon in ink.

Receipts classed.

SEC. 5. Warehouse receipts for property stored shall be of two classes: First, transferable or negotiable; and, second, non-transferable or non-negotiable. Under the first of these classes, all property shall be transferable by the indorsement of the party to whose order such receipt may be issued, and such indorsement of the party shall be deemed a valid transfer of the property represented by such receipt, and may be in blank or to the order of another. All warehouse receipts for property stored shall distinctly state on their face for what they are issued, as also the brands and distinguishing marks; and in the case of grain, the number of sacks, and number of potnds, and kind of grain; also, the rate of storage per month or season charged for storing the same.

Receipt to be indorsed.

SEC. 6. No warehouseman, or other person or persons, giving or issuing negotiable receipts for goods, grain, or other property on storage, shall deliver said property, or any part thereof, without indorsing upon the back of said receipt or receipts, in ink, the amount and date of the deliveries. Nor shall he or they be allowed to make any offset, claim, or demand other than is expressed on the face of the receipt or receipts issued for the same, when called upon to deliver said goods, merchandise, grain, or other property.

No delivery except on order.

SEC. 7. No warehouseman, or person or persons, doing a general storage business, giving or issuing non-negotiable or non-transferable receipts for goods, grain, or other property on storage, shall deliver said property, or any part thereof, except upon the written order of the person or persons to whom the receipt or receipts were issued.

Non-negotiable receipts, how marked.

SEC. 8. All receipts issued by any warehouseman or other person under this act, other than negotiable, shall have printed across their face, in bold, distinct letters, in red ink, the words non-negotiable.

Loss by fire.

SEC. 9. No warehouseman, person or persons, doing a general storage business, shall be responsible for any loss or damage to property by fire while in his or their custody, provided reasonable care and vigilance be exercised to protect and preserve the same.

Felony.

SEC. 10. Any warehouseman, wharfinger, person or persons, who shall violate any of the foregoing provisions of this act, is guilty of felony, shall be subject to indictment, and, upon conviction, shall be fined in a sum not exceeding five thousand dollars (\$5,000), or imprisonment in the State prison of this State not exceeding five years, or both. And all and every person aggrieved by the violation of any of the provisions of this act may have and maintain an action against the person or persons violating any of the foregoing provisions of this act, to recover all damages, immediate or consequent, which he or they may have sustained by reason of any such violation as aforesaid, before any court of competent jurisdiction, whether such person shall have been convicted under the act or not.

LOAN.

6917. *Legal interest—Computation.*

SEC. 1917. Unless there is an express contract in writing, fixing a different rate, interest is payable on all moneys at the rate of seven per cent. per annum after they become due, on any instrument of writing, except a judgment, and on moneys lent, or due on any settlement of account, from the day on which the balance is ascertained, and on moneys received to the use of another and detained from him. In the computation of interest for a period less than a year, three hundred and sixty days are deemed to constitute a year. [*Amendment, approved February 15, 1878; Amendments 1877-8, 87; took effect sixtieth day after passage.*]

CARRIAGE.

7170. *Common carriers not to give preference.*

SEC. 2170. A common carrier must not give preference in time, price, or otherwise, to one person over another. Every common carrier of passengers by

railroad, or by vessel plying upon waters lying wholly within this State, shall establish a schedule time for the starting of trains or vessel from their respective stations or wharves, of which public notice shall be given, and shall, weather permitting, except in case of accident or detention caused by connecting lines, start their said trains or vessel at or within ten minutes after the schedule time so established and notice given, under a penalty of two hundred and fifty dollars for each neglect so to do, to be recovered by action before any court of competent jurisdiction, upon complaint filed by the district attorney of the county in the name of the people, and paid into the common school fund of the said county. [*Amendment, approved April 2, 1880; Amendments 1880, 1 (Ban. ed. 106); took effect immediately.*]

7180. *Obligation to carry luggage.*

SEC. 2180. A common carrier of persons, unless his vehicle is fitted for the reception of persons exclusively, must receive and carry a reasonable amount of luggage for each passenger, without charge, except for an excess of weight over one hundred pounds to a passenger; provided, that if such carrier be a proprietor of a stage line, he may not receive and carry for each passenger by such stage line, without charge, more than sixty pounds of luggage. [*Amendment, approved March 9, 1878; Amendments 1877-8, 87; took effect sixtieth day after passage.*]

7283. *Removal of trustees by court.*

SEC. 2283. The superior court may remove any trustee who has violated or is unfit to execute the trust, or may accept the resignation of a trustee. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 127); took effect immediately.*]

7287. *Vacant trusteeship filled by court.*

SEC. 2287. The superior court may appoint a trustee whenever there is a vacancy, and the declaration of trust does not provide a practicable method of appointment. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 127); took effect immediately.*]

7289. *Superior court as trustee.*

SEC. 2289. When a trust exists without any appointed trustee, or where all the trustees renounce, die, or are discharged, the superior court of the county where the trust property, or some portion thereof, is situated, must appoint another trustee, and direct the execution of the trust. The court may, in its discretion, appoint the original number, or any less number of trustees. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 127); took effect immediately.*]

7389.

An Act relating to advances bona fide made to agents intrusted with goods, and for the better protection of such advances.

Approved March 30, 1878; 1877-8, 835.

[This act was repealed by act of April 16, 1880; 1880, 120 (Ban. ed. 386); took effect from passage.]

LIEN.

7872. *Lien; what.*

SEC. 2872. A lien is a charge imposed in some mode other than by a transfer in trust upon specific property by which it is made security for the performance of an act. [*Amendment, approved February 15, 1878; Amendments 1877-8, 88; took effect sixtieth day after passage.*]

7941. Satisfaction of mortgages.

SEC. 2941. When any mortgage has been satisfied, the mortgagee or his assignee must immediately, on the demand of the mortgagor, execute, acknowledge, and deliver to him a certificate of the discharge thereof, so as to entitle it to be recorded, or he must enter satisfaction, or cause satisfaction of such mortgage to be entered of record; and any mortgagee, or assignee of such mortgagee, who refuses to execute, acknowledge, and deliver to the mortgagor the certificate of discharge, or to enter satisfaction, or cause satisfaction of the mortgage to be entered, as provided in this chapter, is liable to the mortgagor, or his grantee or heirs, for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of one hundred dollars. [*Amendment, approved April 15, 1880; Amendments 1880, 10 (Ban. ed. 269); took effect immediately.*]

7955. What personal property may be mortgaged.

SEC. 2955. Mortgages may be made upon:

One—Locomotives, engines, and other rolling stock of a railroad.

Two—Steamboat machinery, the machinery used by machinists, foundrymen, and mechanics.

Three—Steam engines and boilers.

Four—Mining machinery.

Five—Printing presses and material.

Six—Professional libraries.

Seven—Instruments of a surveyor, physician, or dentist.

Eight—Upholstery and furniture used in hotels, lodging or boarding houses, when mortgaged to secure the purchase-money of the articles mortgaged.

Nine—Growing crops.

Ten—Vessels of more than five tons burden.

Eleven—Instruments, negatives, furniture, and fixtures of a photograph gallery.

Twelve—The machinery, casks, pipes, tubs, and utensils used in the manufacture of wine, fruit brandy and fruit syrup, or sugar. [*Amendment, approved April 1, 1878; Amendments 1877-8, 88; took effect sixtieth day after passage.*]

7972. Continuance of lien of mortgage on crops.

SEC. 2972. The lien of a mortgage on a growing crop continues on the crop after severance, whether remaining in its original state or converted into another product, so long as the same remains on the land of mortgagor. [*New Section, approved April 1, 1878; Amendments 1877-8, 89; took effect from passage.*]

8051. Lien for services.

SEC. 3051. Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill employed for the protection, improvement, safe keeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; and livery or boarding or feed stable proprietors, and persons pasturing horses or stock, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, or pasturing such horses or stock. [*Amendment approved March 29, 1878; Amendments 1877-8, 89; took effect sixtieth day after passage.*]

DAMAGES.

8336. *Conversion—Measure of damages.*

SEC. 3336. The detriment caused by the wrongful conversion of personal property is presumed to be:

First—The value of the property at the time of the conversion, with the interest from that time, or, where the action has been prosecuted with reasonable diligence, the highest market value of the property at any time between the conversion and the verdict, without interest, at the option of the injured party; and,

Second—A fair compensation for the time and money properly expended in pursuit of the property. [*Amendment, approved January 22, 1878; Amendments 1877-8, 89; took effect immediately.*]

ASSIGNMENTS FOR BENEFIT OF CREDITORS.

8465. *Effect of omitting to record.*

SEC. 3465. An assignment for the benefit of creditors is void against creditors of the assignor, and against purchasers and incumbrancers in good faith and for value, unless it is recorded, and unless the inventory required by section three thousand four hundred and sixty-one is filed, pursuant to section three thousand four hundred and sixty-three, within twenty days after the date of the assignment. [*Amendment, approved February 25, 1875; Amendments 1877-8, 90; took effect from passage.*]

NUISANCE.

8491. *Remedies against public nuisance.*

SEC. 3491. The remedies against a public nuisance are:

1. Indictment or information;
2. A civil action; or,
3. Abatement. [*Amendment, approved March 2, 1880; Amendments 1880, 1 (Ban. ed. 12); took effect immediately.*]

8492. *How regulated.*

SEC. 3492. The remedy by indictment or information is regulated by the Penal Code. [*Amendment, approved March 2, 1880; Amendments 1880, 1 (Ban. ed. 12); took effect immediately.*]

Amendments to the Code of Civil Procedure.

PRELIMINARY PROVISION.

10,010. *Holidays.*

Sec. 10. Holidays, within the meaning of this Code, are: Every Sunday, the first day of January, the twenty-second (22d) day of February, the thirtieth (30th) day of May, the fourth day of July, the twenty-fifth day of December, every day on which an election is held throughout the State, and every day appointed by the President of the United States, or by the Governor of this State, for a public fast, thanksgiving, or holiday. If the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, or the twenty-fifth day of December, fall upon a Sunday, the Monday following is a holiday. [*Amendment, approved April 9, 1880; Amendments 1880, 59 (Ban. ed. 189); took effect immediately.*]

COURTS OF JUSTICE.

[All of Part I, and every title, chapter, article, or section thereof, was amended, and a new Part I substituted in place thereof, by act approved April 1, 1880; Amendments 1880, 21 (Ban. ed. 63); took effect immediately; repealed all acts and parts of acts in conflict therewith. The new Part I is as follows:]

PART I.

OF COURTS OF JUSTICE.

TITLE I.

Organization and Jurisdiction.

CHAPTER I. COURTS OF JUSTICE IN GENERAL.

II. COURT OF IMPEACHMENT.

III. SUPREME COURT.

IV. SUPERIOR COURTS.

V. JUSTICES' COURTS.

VI. POLICE COURTS.

VII. GENERAL PROVISIONS RESPECTING COURTS OF JUSTICE.

CHAPTER I.

COURTS OF JUSTICE IN GENERAL.

10,033. *The several courts of this State.*

Sec. 33. The following are the courts of justice of this State:

1. The court of impeachments;
2. The supreme court;

3. The superior courts;
4. The justices' courts;
5. The police courts, and such other inferior courts as the legislature may establish in any incorporated city or town, or city and county.

10,034. Courts of record.

SEC. 34. The courts enumerated in the first three subdivisions of the last preceding section are courts of record.

CHAPTER II.**COURT OF IMPEACHMENT.****10,036. Members of the court.**

SEC. 36. The court of impeachment is the senate; when sitting as such court the senators shall be upon oath; and at least two thirds of the members elected shall be necessary to constitute a quorum.

10,037. Jurisdiction.

SEC. 37. The court has jurisdiction to try impeachments, when presented by the assembly, of the governor, lieutenant-governor, secretary of State, controller, treasurer, attorney-general, surveyor-general, chief justice of the supreme court, associate justices of the supreme court, and judges of the superior courts, for any misdemeanor in office.

10,038. Officers of the court.

SEC. 38. The officers of the senate are the officers of the court.

10,039. Trial for impeachment provided for in the Penal Code.

SEC. 39. Proceedings on the trial of impeachments are provided for in the Penal Code.

CHAPTER III.**SUPREME COURT.****10,040. Justices, elections, and terms of office.**

SEC. 40. The supreme court shall consist of a chief justice, and six associate justices, who shall be elected by the qualified electors of the State at large, at the general State elections next preceding the expiration of the terms of office of their predecessors respectively, and hold their offices for the term of twelve years from and after the first Monday after the first day of January next succeeding their election; provided, that of the justices elected at the general State election of eighteen hundred and seventy-nine, the chief justice shall go out of office at the end of eleven years, and the six associate justices shall have so classified, or shall so classify themselves, by lot, that two of them shall go out of office at the end of three years, two of them at the end of seven years, and two of them at the end of eleven years from the first Monday after the first day of January, eighteen hundred and eighty; and an entry of such classification shall have been, or shall be made in the minutes of the court in bank, signed by them, and a duplicate thereof filed in the office of the secretary of State.

10,041. Computation of years of office.

SEC. 41. The years during which a justice of the supreme court is to hold office are to be computed respectively from and including the first Monday after the first day of January of any one year to and excluding the first Monday after the first day of January of the next succeeding year.

10,042. Vacancies.

SEC. 42. If a vacancy occur in the office of a justice of the supreme court, the governor shall appoint an eligible person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election; and the justice so elected shall hold the office for the remainder of the unexpired term of his predecessor.

10,043. Departments.

SEC. 43. There shall be two departments of the supreme court, denominated respectively Department One and Department Two. The chief justice shall assign three of the associate justices to each department, and such assignment may be changed by him from time to time; provided, that the associate justices shall be competent to sit in either department, and may interchange with one another by agreement among themselves, or if no such agreement be made, as ordered by the chief justice. * The chief justice may sit in either department, and shall preside when so sitting; but the justices assigned to each department shall select one of their number as presiding justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions in relation to the court in bank. The presence of three justices shall be necessary to transact any business in either of the departments, except such as may be done at chambers; but one or more of the justices may adjourn from time to time with the same effect as if all were present, and the concurrence of three justices shall be necessary to pronounce a judgment; provided, that if three do not concur, the cause may be reheard in the same department, or transmitted to the other department, or to the court in bank.

10,044. Apportionment of business.

SEC. 44. The chief justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the court in bank. The order may be made before or after judgment pronounced by a department; but when a cause has been allotted to one of the departments, and a judgment pronounced therein, the order must be made within thirty days after such judgment, and concurred in by two associate justices; and if so made, it shall have the effect to vacate and set aside the judgment. Any four justices may, either before or after judgment by a department, order a cause to be heard in bank. If the order be not made within the time above limited, the judgment shall be final; provided, that no judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the chief justice in writing, with the concurrence of two associate justices.

10,045. Court in bank.

SEC. 45. The chief justice or any four justices may convene the court in bank at any time, and the chief justice shall be the presiding justice of the court when so convened. The presence of four justices shall be necessary to transact any business, and the concurrence of four justices present at the argument shall be necessary to pronounce a judgment in the court in bank; provided, that if four justices so present do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the argument, but to render a judgment, a concurrence of four justices shall be necessary; and every judgment of the court in bank shall be final, except in cases in which no previous judgment has been rendered in one of the departments, and in such cases the judgment of the

court in bank shall be final, unless within thirty days after such judgment an order be made in writing, signed by five justices, granting a rehearing.

10,048. *Absence or disability of chief justice.*

SEC. 46. In case of the absence of the chief justice from the place at which the court in bank is held, or his inability to act, the associate justices shall select one of their own number to perform the duties and exercise the powers of the chief justice during such absence or inability to act.

10,047. *Sessions.*

SEC. 47. The supreme court shall always be open for the transaction of business. It shall hold regular sessions for the hearing of causes, either in bank, or in one or both of its departments, at the capital of the State, commencing on the first Mondays of May and second Mondays of November; at the City and County of San Francisco, commencing on the second Mondays of January and third Mondays of July; and at the City of Los Angeles, commencing on the first Mondays of April and second Mondays of October; and special sessions at either of the above named places at such other times as may be prescribed by the justices thereof. The justices and officers of the supreme court shall be allowed their actual traveling expenses in going to and from their respective places of residence upon the business of the court, or to attend its sessions. If proper rooms in which to hold the court, and for the accommodation of the officers thereof, are not provided by the State, together with attendants, furniture, fuel, lights, and stationery, suitable and sufficient for the transaction of business, the court, or any three justices thereof, may direct the clerk of the supreme court to provide such rooms, attendants, furniture, fuel, lights, and stationery; and the expenses thereof, certified by any three justices to be correct, shall be paid out of the State treasury, for which expenses, and to defray the traveling expenses of the justices and officers of the supreme court above mentioned, a sufficient sum shall be annually appropriated out of any funds in the State treasury not otherwise appropriated. The moneys so appropriated shall be subject to the order of the clerk of the supreme court, and be by him disbursed on proper vouchers, and the same shall be accounted for by him in annual settlements with the controller of State on the first Monday of December of each year.

10,048. *Adjournments.*

SEC. 48. Adjournments from day to day, or from time to time, are to be construed as recesses in the sessions, and shall not prevent the court, or either of its departments, from sitting at any time.

10,049. *Decisions in writing.*

SEC. 49. In the determination of causes, all decisions of the supreme court in bank, or in departments, shall be given in writing, and the grounds of the decision shall be stated.

10,050. *Jurisdiction of two kinds.*

SEC. 50. The jurisdiction of the supreme court is of two kinds:

1. Original; and,
2. Appellate.

10,051. *Original jurisdiction.*

SEC. 51. In the exercise of its original jurisdiction the supreme court shall have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus; and it shall also have power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

10,052. *Appellate jurisdiction.*

Sec. 52. The supreme court shall have appellate jurisdiction:

1. In all cases in equity, except such as arise in justices' courts.
2. In all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars.
3. In all cases of forcible entry and detainer, proceedings in insolvency, actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law.
4. In all special proceedings.
5. In all criminal cases prosecuted by indictment, or information, in a court of record, on questions of law alone.

10,053. *Powers in appealed cases.*

Sec. 53. The supreme court may affirm, reverse, or modify any judgment or order appealed from, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had. The decision of the court shall be given in writing, and in giving its decision, if a new trial be granted, the court shall pass upon and determine all the questions of law involved in the case, presented upon such appeal, and necessary to the final determination of the case. Its judgment in appealed cases shall be remitted to the court from which the appeal was taken.

10,054. *Concurrence necessary to transact business.*

Sec. 54. The concurrence of three justices of the supreme court is necessary for the issuance of any writ, or the transaction of any business, except such as can be done at chambers; provided, that each of the justices shall have power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or any department, or judge thereof, or before any superior court in the State, or any judge thereof.

10,055. *Transfer of books, papers, and actions.*

Sec. 55. All records, books, papers, causes, actions, proceedings, and appeals lodged, deposited, or pending in the supreme court abolished by the constitution, are transferred to the supreme court herein provided for, which has the same power and jurisdiction over them as if they had been in the first instance lodged, deposited, filed, or commenced therein, or, in cases of appeal, appealed thereto.

10,056. *Remittiture in transferred cases.*

Sec. 56. In all cases of appeal transferred to the supreme court, its judgments shall be remitted to the superior courts of the counties, or cities and counties from which the appeals were taken respectively, with the same force and effect as if said cases had been appealed to the supreme court from such superior courts.

[As to transfer of records, books, papers and business from old court to new, see, also, post, 10,079.]

CHAPTER IV.

SUPERIOR COURTS.

10,065. *Judges and elections.*

Sec. 65. There shall be in each of the organized counties, or cities and counties of the State, a superior court, for each of which one judge, and for some

of which two or more judges, as hereinafter in subsequent sections specially provided, shall be elected by the qualified electors of the county, or city and county, at the general State elections, next preceding the expiration of the terms of office of their predecessors respectively; provided, that in and for the Counties of Yuba and Sutter combined, only one superior judge shall be elected, who shall hold the superior courts of both said counties, and in accordance with such rules for the dispatch of business in both said counties as he may adopt.

10,066. *Superior courts of two or more judges.*

SEC. 66. In each of the Counties of Alameda, Los Angeles, Sacramento, San Joaquin, Santa Clara, and Sonoma, there shall be elected two judges of the superior court; and in each of said counties, and in any county, or city and county, other than the City and County of San Francisco, in which there shall be more than one judge of the superior court, the judges of such court may hold as many sessions of said court at the same time as there are judges thereof, and shall apportion the business among themselves as equally as may be.

[As to an additional judge in Mono County, see post, 10,079.]

10,067. *Superior court of the City and County of San Francisco.*

SEC. 67. In the City and County of San Francisco there shall be elected twelve judges of the superior court, any one or more of whom may hold court; and there may be as many sessions of said court at the same time as there are judges thereof. The said judges shall choose from their own number a presiding judge, who may at any time be removed and another chosen in his place, by a vote of any seven of them. The presiding judge shall distribute the business of the court among the judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the superior court, held by any one or more of the judges of said court, shall be equally effective as if all the judges of said court presided at such session.

10,068. *Terms of office.*

SEC. 68. The term of office of judges of the superior court shall be six years from and after the first Monday of January next succeeding their election; provided, that the twelve judges of the superior court elected in the City and County of San Francisco at the general State election of eighteen hundred and seventy-nine shall have so classified, or shall so classify themselves, by lot, that four of them shall go out of office at the end of one year, four of them at the end of three years, and four of them at the end of five years from the first Monday of January, eighteen hundred and eighty; and the entry of such classification shall have been, or shall be, made in the minutes of the court, signed by them, and a duplicate thereof filed in the office of the secretary of State; and provided further, that all the other superior judges elected at the general State election of eighteen hundred and seventy-nine shall go out of office at the end of five years from the first Monday of January, eighteen hundred and eighty.

10,069. *Computation of years of office.*

SEC. 69. The years during which a judge of a superior court is to hold office are to be computed respectively from and including the first Monday of January of any one year to and excluding the first Monday of January of the next succeeding year.

10,070. *Vacancies.*

SEC. 70. If a vacancy occur in the office of judge of a superior court, the

governor shall appoint an eligible person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

10,071. *Superior courts, by judges of other counties.*

SEC. 71. A judge of any superior court may hold the superior court in any county, at the request of the judge or judges of the superior court thereof, and, upon the request of the governor, it shall be his duty to do so; and in either case the judge holding the court shall have the same power as a judge thereof.

10,072. *Judges pro tempore.*

SEC. 72. Any cause in a superior court may be tried by a judge pro tempore, who must be a member of the bar admitted to practice before the supreme court, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause; and his action in the trial of such cause shall have the same effect as if he were a judge of such court. A judge pro tempore shall, before entering upon his duties in any cause, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of California, and that I will faithfully discharge the duties of the office of judge pro tempore in the cause wherein — is plaintiff, and — is defendant, according to the best of my ability."

10,073. *Sessions.*

SEC. 73. The superior courts shall be always open (legal holidays and non-judicial days excepted), and they shall hold their sessions at the county seats of the several counties, or cities and counties, respectively. They shall hold regular sessions, commencing on the first Mondays of January, April, July, and October, and special sessions at such other times as may be prescribed by the judge or judges thereof; provided, that in the City and County of San Francisco the presiding judge shall prescribe the times of holding such special sessions.

10,074. *Adjournments.*

SEC. 74. Adjournments from day to day, or from time to time, are to be construed as recesses in the sessions, and shall not prevent the court from sitting at any time.

10,075. *Jurisdiction of two kinds.*

SEC. 75. The jurisdiction of the superior courts is of two kinds:

1. Original; and,
2. Appellate.

10,076. *Original jurisdiction.*

SEC. 76. The superior courts shall have original jurisdiction:

1. In all cases in equity;
2. In all civil actions in which the subject of litigation is not capable of pecuniary estimation;
3. In all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars.
4. Of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, of all matters of probate, of divorce and

for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for.

5. In all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for. Said courts shall have the power of naturalization, and to issue papers therefor. Said courts and their judges, or any of them, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and of habeas corpus on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

10,077. *Appellate jurisdiction.*

SEC. 77. The superior courts shall have appellate jurisdiction in such cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law.

10,078. *Process.*

SEC. 78. The process of the superior courts shall extend to all parts of the State; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof affected by such action or actions, is situated.

10,079. *Transfer of books, papers, and actions.*

SEC. 79. All records, books, papers, causes, actions, proceedings and appeals lodged, deposited, or pending in the district court or courts, county court, probate court, municipal criminal court, or municipal court of appeals, of, in, or for any county, or city and county of the State, abolished by the constitution, are transferred to the superior court of such county, or city and county, which has the same power and jurisdiction over them as if they had been in the first degree lodged, deposited, filed, or commenced therein, or, in cases of appeal, appealed thereto.

An Act to transfer the records, papers, and business of the courts existing on the thirty-first day of December, eighteen hundred and seventy-nine, in this State, to the courts now existing therein.

Approved February 4, 1880; 1880, 2 (Ban. ed. 2).

Supreme court, successor of court of same name.

SECTION 1. The supreme court shall, for all purposes, be considered the successor of the court of the same name which was abolished on the first day of January, eighteen hundred and eighty, and to have succeeded to all its unfinished business. It shall have jurisdiction of, and shall hear and determine, or otherwise dispose of, all causes, proceeding, appeals, motions, and matters pending on said day in the court superseded by it; and also, of all appeals taken to such court before or after such day, from judgments or orders of any of the inferior courts abolished by the constitution. From and after the first day of January, eighteen hundred and eighty, the supreme court shall have the custody of all records, books, and papers of the former supreme court, and the same jurisdiction over its judgments, orders, and proceedings as if they had in the first instance been rendered, made, or commenced in the present court. All laws relating to the former court shall, as far as applicable, be considered as applying to the present court. All rules of the former court which were in force on the first day of January, eighteen hundred and eighty, and not inconsistent with the constitution, shall continue in force as rules of the present court until altered, abolished, or superseded by the order of the court.

Superior courts, successor of what courts.

SEC. 2. The superior court of each county in this State shall, for all purposes, be considered the successor of the district, county, and probate courts thereof, and, in the City and County of San Francisco, of the municipal criminal court and municipal court of appeals, and shall be deemed to have succeeded to all the unfinished business of said courts. The superior courts shall hear, determine, or otherwise dispose of, all causes and proceedings which were pending on the first day of January, eighteen hundred and eighty, in the said courts superseded by them, and every motion or proceeding then pending or thereafter made or taken in such causes and proceedings, and of which said courts would have had jurisdiction had they not been abolished; and also, all appeals taken or perfected, before or after said day, from all orders or judgments of justices' and police courts which by law are declared to be appealable. From and after the first day of January, eighteen hundred and eighty, the superior courts shall have the custody of all the records, books, and papers of the said courts superseded by them, and shall have jurisdiction thereof, and of the judgments, orders, and process of said courts; and shall enforce the same and issue process thereon in like manner, and with the same effect, as if they had in the first instance been filed, commenced, rendered, made, or issued in or by the superior court. The superior court of the City and County of San Francisco shall have jurisdiction of, and shall try and dispose of, all indictments for misdemeanor pending in the city criminal court of said city and county, on the first day of January, eighteen hundred and eighty; and such indictments, and all papers and records relating thereto, shall be transferred to the said superior court and become records thereof. Any application, motion, or proceeding, set by the district, county, or probate court of any county, or by the judge thereof, to be heard by such court or judge after the first day of January, eighteen hundred and eighty, may be heard in the superior court of such county, upon the same notice that was required to authorize the hearing thereof in such district, county, or probate court, or by the judge thereof. Any process issued out of any district, county, or probate court of this State before the first day of January, eighteen hundred and eighty, may be served, or the service thereof completed, after said day, in the same manner, and with like effect, as if such courts had not been abolished; provided, that such process shall be returned to the superior court of the county in which it was issued, and any appearance or answer required by such process shall be made or filed in such court.

Police court of San Francisco; transfer of cases to.

SEC. 3. All prosecutions which were transferred or certified for trial to the city criminal court of the City and County of San Francisco, by the police court thereof, and were pending or undetermined on the first day of January, eighteen hundred and eighty, shall be tried and disposed of in the said police court; and all the papers, pleadings, and records relating to such prosecutions shall be transferred to, and deposited with, said police court, and become records and papers thereof.

SEC. 4. This act shall take effect immediately.

An Act to confer upon the superior court of each county and the judge thereof the powers heretofore possessed by the district, county, and probate courts of such county, and the judges thereof.

Approved April 3, 1880; 1880, 23 (San. ed. 115).

Authority of old courts and judges vested in new courts and judges.

SECTION 1. In all cases in which, on the first day of January, one thousand

eight hundred and eighty, any authority or jurisdiction was by law vested in the county or probate court of any county, or in the judge thereof, or in any district court of such county, or in the judge thereof, such jurisdiction and authority shall hereafter, while such law continues in force, be vested in and exercised by the superior court of such county, or by a judge thereof.

Trials to be continued in certain cases.

SEC. 2. If any judge of the superior court of any county was the judge of the county, probate, or district court, in and for said county, on the first day of January, eighteen hundred and eighty, and any cause, proceeding, or motion, wholly or partially tried before him, remains undecided, the superior court, when presided over by him, may resume the consideration or trial of such cause, proceeding, or motion, at the stage where it was suspended in such probate, county, or district court, and may complete such trial or hearing, or determine such cause, motion, or proceeding; as if the same had first been brought or made in such superior court.

SEC. 3. This act shall take effect immediately.

An Act to provide an additional judge of the superior court for the County of Mono.

Approved April 16, 1890; 1890, 99 (Ban. ed. 335).

Additional judge of the superior court of Mono County.

SECTION 1. Within ten days after the passage of this act the governor shall appoint an additional judge of the superior court of the County of Mono, who shall qualify forthwith, and shall hold said office until the first Monday after the first day of January, A. D. eighteen hundred and eighty-one; and at the next general election a judge of the superior court of said county shall be elected to hold office for the term of four years from the first Monday after the first day of January, A. D. eighteen hundred and eighty-one.

Salary.

SEC. 2. The salary of said additional judge shall be the same in amount and shall be paid in the same manner as that of the judge of the superior court of said county now authorized by law.

SEC. 3. This act shall be in force from and after its approval by the governor.

CHAPTER V.

JUSTICES' COURTS.

ARTICLE I. OF JUSTICES' COURTS IN CITIES AND COUNTIES.

II. OF JUSTICES' COURTS IN TOWNSHIPS.

III. JUSTICES OF THE PEACE AND JUSTICES' COURTS IN GENERAL.

ARTICLE I.

JUSTICES' COURTS IN CITIES AND COUNTIES.

10,085. *Justices' courts and justices.*

SEC. 85. There shall be in every city and county of more than one hundred thousand population, a justices' court, for which five justices of the peace shall be elected by the qualified electors of such city and county at the general State election next preceding the expiration of the terms of office of their predecessors. Any one of said justices may hold court, and there may be as many sessions of said court at the same time as there are justices thereof. The said justices shall choose one of their number to be presiding justice, who may at any time be removed and another appointed in his place by a vote of a majority

of them; provided, that in case of the temporary absence or disability of the presiding justice, any one of the other justices, to be designated by the presiding justice, may act as presiding justice during such absence or disability.

10,086. Justices' clerk.

SEC. 86. The supervisors of such city and county shall appoint a justices' clerk on the written nomination and recommendation of said justices, or a majority of them, who shall hold office for two years, and until his successor is in like manner appointed and qualified. Said justices' clerk shall take the constitutional oath of office, and give bond in the sum of ten thousand dollars for the faithful discharge of the duties of his office, and in the same manner as is or may be required of other officers of such city and county. A new or additional bond may be required by the supervisors of such city and county, and in such amount as may be fixed by said supervisors, whenever they may deem it necessary. The justices' clerk shall have authority to appoint two deputy clerks, for whose acts he shall be responsible on his official bond, the said deputy clerks to hold office during the pleasure of said clerk. Said justices' clerk and deputy shall have authority to administer oaths, and take and certify affidavits in any action, suit, or proceeding in said justices' court.

10,087. Sheriff and deputies.

SEC. 87. The sheriff of such city and county shall be ex officio an officer of said court, and it shall be his duty to serve or execute, or cause to be served and executed, each and every process, writ, or order that may be issued by said justices' court; provided, that a summons issued from said court may be served and returned as provided in section eight hundred and forty-nine of this Code; and that subpoenas may be issued by the justices' clerk and served as provided in section one thousand nine hundred and eighty-seven and one thousand nine hundred and eighty-eight of this Code. The said sheriff may appoint, in addition to the other deputies allowed by law, three deputies, whose duty it shall be to assist said sheriff in serving and executing the process, writs, and orders of the said justices' court. Said deputies shall receive a salary of one hundred and twenty-five dollars per month each, payable monthly, out of the city and county treasury, and out of the special fee fund, after being first allowed and audited as other demands are by law required to be audited and allowed. One of said deputies shall remain in attendance during the sessions of said court, and at such other times as the said court or the presiding justice thereof may order and direct, for the purpose of attending to such duties as may be imposed on said sheriff or said deputies as herein provided, or required by law. The said sheriff shall be liable on his official bond for the faithful performance of all duties required of him, or any of his said deputies.

10,088. Offices and office hours.

SEC. 88. The supervisors of such city and county shall provide, in some convenient locality in the city and county, a suitable office, or suite of offices for said presiding justice, justices' clerk, deputy clerk, and deputy sheriff, and offices suitable for holding sessions of said court, and separate from one another, for each of said justices of the peace, together with attendants, furniture, fuel, lights, and stationery sufficient for the transaction of business; and if they are not provided, the court may direct the sheriff to provide the same, and the expenses incurred, certified by the justices to be correct, shall be a charge against the city and county treasury, and paid out of the general fund thereof. The said justices, justices' clerk, and deputy clerk, shall be in attendance at their

respective offices for the dispatch of official business, daily, from the hour of eight o'clock A. M. until five o'clock P. M.

10,089. *Actions.*

SEC. 89. All actions, suits, and proceedings in such city and county whereof justices of the peace or justices' courts have jurisdiction, except those cases of concurrent jurisdiction that may be commenced in some other court, shall be entitled "In the Justices' Court of the City and County of ——" (inserting the name of the city and county), and commenced and prosecuted in said justices' court, which shall be always open. The original process shall be returnable, and the parties summoned required to appear before the presiding justice, or before one of the other justices of the peace, to be designated by the presiding justice, at his office; but all complaints, answers, and other pleadings and papers, required to be filed, shall be filed, and a record of all such actions, suits, and proceedings made and kept in the clerk's office aforesaid; and the presiding justice and each of the other justices shall have power, jurisdiction, and authority to hear, try, and determine any action, suit, or proceeding so commenced, and which shall have been made returnable before him, or may be assigned or transferred to him, or any motion, application, or issue therein (subject to the constitutional right of trial by jury), and to make any necessary and proper orders therein.

10,090. *Reassignment and transfer of actions.*

SEC. 90. In case of sickness or disability or absence of a justice of the peace (on the return of a summons, or at the time appointed for trial), to whom a cause has been assigned, the presiding justice shall reassign the cause to some other justice, who shall proceed with the trial and disposition of said cause in the same manner as if originally assigned to him; and if, at any time before the trial of a cause or matter returnable or pending before any of said justices, either party shall object to having the cause or matter tried before such justice, on the ground that such justice is a material witness for either party, or on the ground of the interest, prejudice, or bias of such justice, and such objection be made to appear in the manner prescribed by section eight hundred and thirty-three of this Code, the said justice shall suspend proceedings, and the presiding justice, on motion and production before him of the affidavit and proofs, shall order the transfer of the cause or matter for trial before some other justice, to be designated by him. The presiding justice may, in like manner, assign or transfer any contested motion, application, or issue in law, arising in any cause returnable or pending before him or any other justice, to some other justice; and the said justice, to whom any cause, matter, motion, application, or issue shall be so, as aforesaid, assigned or transferred, shall have power, jurisdiction, and authority to hear, try, and determine the same accordingly.

10,091. *Payment of fees.*

SEC. 91. All legal process of every kind in actions, suits, or proceedings in said justices' court, for the issue or service of which any fee is or may be allowed by law, shall be issued by the said justices' clerk upon the order of the presiding justice, or upon the order of one of the justices of the peace, acting as presiding justice, as in this article provided; and the fees for issuance and service of all such process, and all other fees which are allowed by law for any official services of justices, justices' clerk, or sheriff, shall be exacted and paid in advance into the hands of said clerk, and be by him daily, or weekly, or monthly, as the supervisors may require, and before his salary shall be allowed,

accounted for in detail, under oath, and paid into the treasury of such city and county as part of the special fee fund thereof; provided, that such payment in advance shall not be exacted from parties who may prove to the satisfaction of the presiding justice that they have a good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees; and no judgment shall be rendered in any action before said justices' court, or any of said justices, until the fees allowed therefor, and all fees for previous services therein, which are destined to be paid into the treasury, shall have been paid, except in cases of poor persons, as hereinbefore provided.

10,092. *Certificates, transcripts, and other papers.*

SEC. 92. Cases which by the provisions of law are required to be certified to the superior court, by reason of involving the question of title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the presiding justice and justices' clerk; and for that purpose, if such question shall arise on the trial, while the case is pending before one of the other justices, such justice shall certify the same to the presiding justice. All abstracts and transcripts of judgments and proceedings in said court, or in any of the dockets or registers of or deposited in said court, shall be given and certified from any of such dockets or registers, and signed by the presiding justice and clerk, and shall have the same force and effect as abstracts and transcripts of justices of the peace in other cases. Appeals from judgments rendered in said court shall be taken and perfected in the manner prescribed by law; but the notice of appeal, and all the papers required to be filed to perfect it, shall be filed with the justices' clerk. Statements on appeal shall be settled by the justice who tried the cause. Sureties on appeal, or on any bond, or undertaking given in any cause or proceeding in said court, when required to justify, may justify before any one of the justices.

10,093. *Justices' docket.*

SEC. 93. In a suitable book, strongly bound, the justices' clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said justices' court, which book shall be a public record, and be known as the "Justices' Docket," in which docket the clerk shall make the same entries as are provided for in section nine hundred and eleven of this Code, and which said docket and entries therein shall have the same force and effect as is provided by law in reference to dockets of justices of the peace. To enable the clerk to make up such docket, each of the justices shall keep minutes of his proceedings in every cause returnable before or assigned or transferred to him for trial or hearing; and upon judgment or other disposition of a cause, such justice shall immediately certify and return the said minutes, together with all pleadings and papers in said cause, to the clerk's office, who shall immediately thereupon file the same and make the proper entries under the title of the action in the docket aforesaid.

10,094. *Territorial extent of jurisdiction.*

SEC. 94. The jurisdiction of the justices' court of such city and county extends to the limits of the city and county, and its process may be served in any part thereof.

10,095. *Practice and rules.*

SEC. 95. The justices' court, and the justices of the peace of every such city and county, shall be governed in their proceedings by the provisions of law regulating proceedings before justices of the peace, so far as such provisions

are not altered or modified in this article, and the same are or can be made applicable in the several cases arising before them. The justices' courts of such city and county shall have power to make rules not inconsistent with the constitution and laws for the government of such justices' court and the officers thereof; but such rules shall not be in force until thirty days after their publication; and no rules shall be made imposing any tax or charge on any legal proceedings, or giving any allowance to any justice or officer for services.

10,096. *Attorneys.*

SEC. 96. It shall not be lawful for any justice of the peace, justices' clerk, or sheriff of any such city and county, or any of their deputies, to appear or advocate, or in any manner act as attorney, counsel, or agent for any party or person in any cause, or in relation to any demand, account, or claim pending, or to be sued or prosecuted before said court or justices, or either of them; nor shall any person other than an attorney at law, duly admitted to practice in courts of record, be permitted to appear as attorney or agent for any party in any cause or proceeding before said justices' court, or any of said justices, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before some officer authorized by law to take acknowledgments of deeds, which power of attorney, or a copy thereof, duly certified by one of the justices (who, on inspection of the original, and being satisfied of its genuineness, shall certify such copy), shall be filed among the papers in such cause or proceeding.

10,097. *Salaries.*

SEC. 97. The justices of the peace, and justices' clerk, and his deputy, shall receive for their official services the following salaries, and no other or further compensation, payable monthly, out of the city and county treasury, and out of the special fee fund thereof, after being first allowed and audited as other similar demands are by law required to be allowed and audited: To the presiding justice, twenty-seven hundred dollars per annum; to the other justices of the peace and the justices' clerk, each, twenty-four hundred dollars per annum; to the deputy of the justices' clerk, twelve hundred dollars per annum.

10,098. *What justices successors of others.*

SEC. 98. The justices of the peace elected in any such city and county at the general election of eighteen hundred and seventy-nine, or persons appointed to fill their places, are successors of the justices of the peace of such city and county who held office at the time of such election; and all records, registers, dockets, books, papers, causes, actions, and proceedings lodged, deposited, or pending before the justices' court, or any justice of any such city and county, are transferred to the justices' court of such city and county, herein provided for, which shall have the same power and jurisdiction over them as if they had been in the first instance lodged, deposited, filed, or commenced therein.

ARTICLE II.

JUSTICES' COURTS IN TOWNSHIPS.

10,103. *Justices' courts and justices.*

SEC. 103. There shall be at least one justices' court in each of the townships of the State, for which one justice of the peace shall be elected by the qualified

electors of the township, at the general State election next preceding the expiration of the term of office of his predecessor; provided, that in any county where, in the opinion of the board of supervisors, the public convenience requires it, the said board may, by order, provide that two justices' courts may be established in any township, designating the same in such order, and in such case one justice of the peace shall be elected in the manner herein provided for each of such courts. In every city having ten thousand and not more than twenty thousand inhabitants there shall be one justice of the peace, and in every city having twenty thousand and not more than one hundred thousand inhabitants two justices of the peace, to be elected in like manner by the electors of such cities respectively. No person shall be eligible to the office of justice of the peace in any city having over ten thousand inhabitants who has not been admitted to practice law in a court of record; and no justice of the peace shall be permitted to practice law before any other justice of the peace in the city or county in which he resides, or to have a partner engaged in the practice of law in any justices' court in such city or county. Every justice of the peace in any city having over ten thousand inhabitants shall receive an annual salary of two thousand dollars per annum, and shall be provided by the city authorities with a suitable office in which to hold his court. All fees which are by law chargeable for services rendered by such justices of the peace in the cities aforesaid, shall be by them respectively collected, and on the first Monday in each month every such city justice of the peace shall make report, under oath, to the city treasurer, of the amount of fees so by him collected, and pay the amount so reported into the city treasury, to the credit of the general fund thereof.

10,104. *Courts, where held.*

SEC. 104. A justices' court may be held at any place selected by the justice holding the same, in the township for which he is elected or appointed; and such court shall be always open for the transaction of business.

10,105. *What justice may hold court for another.*

SEC. 105. A justice of the peace of any township may hold the court of any other justice of the peace of the same county, at his request, and while so acting shall be vested with the power of the justice for whom he so holds court, in which case the proper entry of the proceedings before the attending justice, subscribed by him, shall be made in the docket of the justice for whom he so holds the court.

10,106. *Territorial extent of civil jurisdiction.*

SEC. 106. The civil jurisdiction of justices' courts extends to the limits of the townships in which they are held; but mesne and final process of any justices' court in a county may be issued to and served in any part of the county.

10,107. *What justices successors of others.*

SEC. 107. The justices of the peace elected in the townships at the general State election of eighteen hundred and seventy-nine, or persons appointed to fill their places, are successors of the justices of the peace of the townships, respectively, who held office at the time of such election; and, in case the townships of any county are hereafter changed or altered, the board of supervisors of such county shall make provision as to what justices shall be successors of the justices of townships so changed or altered.

ARTICLE III.

JUSTICES OF THE PEACE AND JUSTICES' COURTS IN GENERAL.

10,110. Terms of office.

Sec. 110. The term of office of justices of the peace shall be two years from the first day of January next succeeding their election; provided that all justices of the peace elected at the general State election of eighteen hundred and seventy-nine shall go out of office at the end of one year from the first day of January, eighteen hundred and eighty.

10,111. Vacancies.

Sec. 111. If a vacancy occurs in the office of a justice of the peace, the board of supervisors of the county shall appoint an eligible person to hold the office for the remainder of the unexpired term.

10,112. Civil jurisdiction.

Sec. 112. The justices' courts shall have civil jurisdiction:

1. In actions arising on contract for the recovery of money only if the sum claimed, exclusive of interest, does not amount to three hundred dollars;
2. In actions for damages for injury to the person or for taking, detaining, or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or possession of the same, if the damage claimed do not amount to three hundred dollars;
3. In actions to recover the possession of personal property, if the value of such property does not amount to three hundred dollars;
4. In actions for a fine, penalty, or forfeiture, not amounting to three hundred dollars, given by statute, or the ordinance of an incorporated city and county, city, or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll, or municipal fine;
5. In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not amount to three hundred dollars, though the penalty may exceed that sum;
6. To take and enter judgment for the recovery of money on the confession of a defendant, when the amount confessed, exclusive of interest, does not amount to three hundred dollars.

10,113. Concurrent jurisdiction.

Sec. 113. The justices' courts shall have concurrent jurisdiction with the superior courts within their respective townships:

1. In actions of forcible entry and detainer, where the rental value of the property entered upon or unlawfully detained does not exceed twenty-five dollars per month, and the whole amount of damages claimed does not exceed two hundred dollars;
2. In actions to enforce and foreclose liens on personal property where neither the amount of the liens nor the value of the property amounts to three hundred dollars.

10,114. Civil jurisdiction restricted.

Sec. 114. Except as in the last preceding section provided, the jurisdiction of justices' courts shall not, in any case, trench upon the jurisdiction of the several courts of record of the State, nor extend to any action or proceeding against ships, vessels, or boats, for the recovery of seamen's wages for a voyage performed in whole or in part without the waters of this State.

10,115. Criminal jurisdiction.

Sec. 115. The justices' courts shall have jurisdiction of the following public offenses committed within the respective counties in which such courts are established:

1. Petit larceny;
2. Assault or battery not charged to have been committed upon a public officer in the discharge of his duties, or to have been committed with such intent as to render the intent a felony;
3. Breaches of the peace, riots, routs, affrays, committing a willful injury to property, and all misdemeanors punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding six months, or by both such fine and imprisonment.

**CHAPTER VI.
POLICE COURTS.**

10,121. Provided for in Political Code.

Sec. 121. Police courts are established in incorporated cities and counties, cities and towns, and their organization, jurisdiction, and powers provided for in the Political Code, Part Four.

**CHAPTER VII.
GENERAL PROVISIONS RESPECTING COURTS OF JUSTICE.**

- ARTICLE I. PUBLICITY OF PROCEEDINGS.
- II. INCIDENTAL POWERS AND DUTIES OF COURTS.
- III. JUDICIAL DAYS.
- IV. PROCEEDINGS IN CASE OF ABSENCE OF JUDGE.
- V. PROVISIONS RESPECTING PLACES OF HOLDING COURTS.
- VI. SEALS OF COURTS.

ARTICLE I.

PUBLICITY OF PROCEEDINGS.

10,124. Sittings, public.

Sec. 124. The sittings of every court of justice shall be public, except as provided in the next section.

10,125. Sittings, when private.

Sec. 125. In an action for divorce, criminal conversation, seduction, or breach of promise of marriage, the court may direct the trial of any issue of fact joined therein to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel; provided, that in any cause the court may, in the exercise of a sound discretion, during the examination of a witness, exclude any or all other witnesses in the cause.

ARTICLE II.

INCIDENTAL POWERS AND DUTIES OF COURTS.

10,128. Powers respecting conduct of proceedings.

Sec. 128. Every court shall have power:

1. To preserve and enforce order in its immediate presence;
2. To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
3. To provide for the orderly conduct of proceedings before it, or its officers;
4. To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein;

5. To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto;

6. To compel the attendance of persons to testify in an action or proceeding pending therein, in the cases and manner provided in this Code;

7. To administer oaths in an action or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties;

8. To amend and control its process and orders so as to make them conformable to law and justice.

10,129. Courts of record may make rules.

SEC. 129. Every court of record may make rules not inconsistent with the laws of this State, for its own government and the government of its officers; but such rules shall neither impose any tax or charge upon any legal proceeding, nor give any allowance to any officer for services.

10,130. When rules take effect.

SEC. 130. Rules adopted by the supreme court shall take effect sixty days, and rules adopted by superior courts, thirty days after their publication.

ARTICLE III.

JUDICIAL DAYS.

10,133. Days on which courts, etc., may be held.

SEC. 133. Courts of justice may be held and judicial business transacted on any day, except as provided in the next section.

10,134. Non-judicial days.

SEC. 134. No court shall be open, nor shall any judicial business be transacted on Sunday, on the first day of January, on the twenty-second day of February, on the fourth day of July, on the twenty-fifth day of December, on a day in which an election is held throughout the State, or on a day appointed by the president of the United States, or by the governor of this State, for a public fast, thanksgiving, or holiday, except for the following purposes:

1. To give, upon their request, instructions to a jury when deliberating on their verdict;

2. To receive a verdict, or discharge a jury;

3. For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; provided, that the supreme court shall always be open for the transaction of business; and provided further, that injunctions and writs of prohibition may be issued and served on any day.

10,135. Appointments on non-judicial days.

SEC. 135. If any day mentioned in the last section happen to be the day appointed for the holding or sitting of a Court, or to which it is adjourned, it shall be deemed appointed for or adjourned to the next day.

ARTICLE IV.

PROCEEDINGS IN CASE OF ABSENCE OF JUDGE.

10,139. Adjournment for absence of judge.

SEC. 139. If no judge attend on the day appointed for the holding or sitting of a court, or on the day to which it may have been adjourned, before noon, the sheriff or clerk shall adjourn the same until the next day, at ten o'clock A. M., and if no judge attend on that day, before noon, the sheriff or clerk shall

adjourn the same until the following day at the same hour, and so on, from day to day for one week, unless the judge, by written order, directs it to be adjourned to some day certain, fixed in said order, in which case it shall be so adjourned.

10,140. *Adjournment till next regular session.*

SEC. 140. If no judge attend for one week, and no written order be made, as provided in the last section, the sheriff or clerk shall adjourn the session until the time appointed for the holding of the next regular session.

ARTICLE V.

PROVISIONS RESPECTING PLACES OF HOLDING COURTS.

10,142. *Change in certain cases of place of holding court.*

SEC. 142. The judge or judges authorized to hold or preside at a court appointed to be held at a particular place in a city and county, county, city, or town, may, by an order filed with the city and county or county clerk, and published as he or they may prescribe, direct that the court be held or continued at any other place in the city and county, county, city, or town than that appointed, when war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction or danger of the building appointed for holding the court may render it necessary; and may in the same manner revoke the order, and in his or their discretion, appoint another place in the same city and county, county, city, or town, for holding the court.

10,143. *Parties to appear at place appointed.*

SEC. 143. When the court is held at a place appointed, as provided in the last section, every person held to appear at the court must appear at the place so appointed.

10,144. *When sheriff to provide court-rooms, etc.*

SEC. 144. If suitable rooms for holding the superior courts and the chambers of the judges of said courts be not provided in any city and county, or county, by the supervisors thereof, together with the attendants, furniture, fuel, lights, and stationery sufficient for the transaction of business, the courts, or the judge or judges thereof, may direct the sheriff of the city and county, or county, to provide such rooms, attendants, furniture, fuel, lights, and stationery, and the expenses incurred, certified by the judge or judges to be correct, shall be a charge against the city and county treasury, and paid out of the general fund thereof.

ARTICLE VI.

SEALS OF COURTS.

10,147. *What courts shall have seals.*

SEC. 147. Each of the following courts shall have a seal:

1. The supreme court;
2. The superior courts;
3. The police court of every city and county.

10,148. *Seal of supreme court.*

SEC. 148. The seal used by the supreme court, abolished by the constitution, shall be the seal of the supreme court herein provided for; but the said court may direct the clerk of the supreme court to provide two duplicates of said seal, each of which shall be considered the same as and have the same force and effect as the original.

10,149. *Seals of superior courts.*

SEC. 149. The seals of the superior courts shall be circular, not less than one and three-fourths inches in diameter, and having in the center any word, words, or design adopted by the judges thereof, and the following inscription surrounding the same: "Superior Court —, California," inserting the name of the county or city and county; provided, that the seal of any such court, which has been adopted previous to the passage of this act, shall be the seal of such court until another be adopted.

10,150. *Seals of police courts of cities and counties.*

SEC. 150. The police court of every city and county may use any seal having upon it the inscription, "Police Court —" (inserting the name of the city and county).

10,151. *Seals, how provided—Private seals, when used.*

SEC. 151. Courts which have not the necessary seal provided, or the judge or judges thereof, shall request the supervisors of their respective counties, or cities and counties, to provide the same, and in case of their failure to do so may order the sheriff to provide the same, and the expense thereof shall be a charge against the county or city and county treasury, and paid out of the general fund thereof; and until such seal be provided the clerk of each court may use his private seal whenever a seal is required,

10,152. *Clerk of court to keep seal.*

SEC. 152. The clerks of the court shall keep the seal thereof.

10,153. *Seals of courts, to what documents affixed.*

SEC. 153. The seal of a court need not be affixed to any proceeding therein or document, except:

1. To a writ;
2. To the certificate of probate of a will or of the appointment of an executor, administrator, or guardian;
3. To the authentication of a copy of a record or other proceeding of a court, or of an officer thereof, or of a copy of a document on file in the office of the clerk.

An Act to declare valid writs, process, and certificates issued by the superior courts of this State, or the clerks thereof, before such courts shall have been legally provided with seals.

Approved March 31, 1880; 1880, 19 (San. ed. 62).

Writs, process, etc., declared valid.

SECTION 1. No writ, process, or certificate issued by any superior court, or the clerk thereof, before such court shall have been legally provided with a seal, shall be invalid, if in other respects valid, by reason of the absence of a lawful seal; but every such writ, process, or certificate, whether under the seal of one of the courts abolished on the first day of January, eighteen hundred and eighty; or under the private seal of the clerk, or under any other seal, or issued without a seal, shall have the same validity as if it had been authenticated by a legally adopted seal of the court out of which or by whose clerk it was issued.

SEC. 2. This act shall take effect immediately.

TITLE II. Judicial Officers.

CHAPTER I. JUDICIAL OFFICERS IN GENERAL.

II. POWERS AND DUTIES OF JUDGES AT CHAMBERS.

III. DISQUALIFICATIONS OF JUDGES.

IV. INCIDENTAL POWERS AND DUTIES OF JUDICIAL OFFICERS.

V. MISCELLANEOUS PROVISIONS RESPECTING COURTS AND JUDICIAL OFFICERS.

CHAPTER I.

JUDICIAL OFFICERS IN GENERAL

10,156. *Qualifications of justices of supreme court.*

SEC. 156. No person shall be eligible to the office of chief or associate justice of the supreme court unless he shall have been a citizen of the United States and a resident of this State for two years next preceding his election or appointment, nor unless he shall have been admitted to practice before the supreme court of the State.

10,157. *Qualifications of superior judges.*

SEC. 157. No person shall be eligible to the office of judge of a superior court unless he shall have been a citizen of the United States and a resident of this State for two years next preceding his election or appointment, nor unless he shall have been admitted to practice before the supreme court of the State.

10,158. *Residence of superior judges.*

SEC. 158. Each judge of a superior court shall reside at the county seat of the county in which such court is held, or within three miles thereof, and within the county, except that in the Counties of Yuba and Sutter the judge may reside in either of said counties.

10,159. *Residence and qualifications of justices of the peace.*

SEC. 159. Every justice of the peace shall reside in the city and county, or township, in which this court is held, and no person shall be eligible to the office of justice of the peace unless he shall have been a citizen of the United States and a resident of the city and county, or county, in which he is to serve for one year next preceding his election or appointment.

10,160. *Judges holding superior courts at request of governor.*

SEC. 160. If, by reason of sickness, absence, disability, or other cause, a regular session of the superior court can not be held in any county by the judge or judges thereof, or by a superior judge, requested by him or them to hold such court, a certificate of that fact shall be transmitted by the clerk thereof to the governor, who may thereupon request some other superior judge to hold such court; and a judge so holding a court at the request of the governor, shall be allowed his actual expenses in going to, returning from, and attending upon the business of such court, which shall be a charge against the treasury of the county where such court is held, and paid out of the general fund thereof.

10,161. *Justices and judges ineligible to other than judicial office.*

SEC. 161. The justices of the supreme court and judges of the superior courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

CHAPTER II.

POWERS OF JUDGES AT CHAMBERS.

10,165. *Powers of justices of supreme court at chambers.*

Sec. 165. The justices of the supreme court, or any of them, may, at chambers, grant all orders and writs which are usually granted in the first instance upon an ex parte application, except writs of mandamus, certiorari, and prohibition; and may, in their discretion, hear applications to discharge such orders and writs.

10,166. *Powers of superior judges at chambers.*

Sec. 166. The judge or judges of a superior court, or any of them, may, at chambers, grant all orders and writs which are usually granted in the first instance upon an ex parte application, and may, at chambers, hear and dispose of such orders and writs; and may also, at chambers, appoint appraisers, receive inventories and accounts to be filed, suspend the powers of executors, administrators, or guardians in the cases allowed by law, grant special letters of administration or guardianship, approve claims and bonds, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

CHAPTER III.

DISQUALIFICATIONS OF JUDGES.

10,170. *Disqualifications to sit or act.*

Sec. 170. No justice, judge, or justice of the peace, shall sit or act as such in any action or proceeding:

1. To which he is a party, or in which he is interested;
2. When he is related to either party by consanguinity or affinity within the third degree, computed according to the rules of law;
3. When he has been attorney or counsel for either party in the action or proceeding.

But the provisions of this section shall not apply to the arrangement of the calendar or the regulation of the order of business, nor to the power of transferring the action or proceeding to some other court.

10,171. *Certain judges not to practice law.*

Sec. 171. No justice or judge of a court of record shall practice law in any court of this State during his continuance in office, nor shall any justice of the peace practice law before any justice's court in the county where he resides.

10,172. *No judicial officer to have partner practicing law.*

Sec. 172. No justice, judge, or other elective judicial officer, or court commissioner, shall have a partner acting as attorney or counsel in any court of this State.

CHAPTER IV.

INCIDENTAL POWERS AND DUTIES OF JUDICIAL OFFICERS.

10,176. *Powers of judges out of court.*

Sec. 176. A justice or judge may exercise out of court all the powers expressly conferred upon a justice or judge, as contradistinguished from the court.

10,177. Powers of judicial officers as to conduct of proceedings.

SEC. 177. Every judicial officer shall have power:

1. To preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of official duty;
2. To compel obedience to his lawful orders as provided in this Code;
3. To compel the attendance of persons to testify in a proceeding before him, in the cases and manner provided in this Code;
4. To administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and duties.

10,178. To punish for contempt.

SEC. 178. For the effectual exercise of the powers conferred by the last section, a judicial officer may punish for contempt in the cases provided in this Code.

10,179. To take acknowledgments and affidavits.

SEC. 179. Each of the justices of the supreme court, and judges of the superior courts, shall have power in any part of the State, and every justice of the peace within his city and county, or county, and a judge of a police or other inferior court within his city and county, city, or town, to take and certify:

1. The proof and acknowledgment of a conveyance of real property, or of any other written instrument;
2. The acknowledgment of satisfaction of a judgment of any court;
3. An affidavit or deposition to be used in this State.

CHAPTER V.

MISCELLANEOUS PROVISIONS RESPECTING COURTS AND JUDICIAL OFFICERS.

10,182. Subsequent applications for orders refused, when prohibited.

SEC. 182. If an application for an order, made to a judge of a court in which the action or proceeding is pending, is refused in whole or in part, or is granted conditionally, no subsequent application for the same order shall be made to any court commissioner, or any other judge, except of a higher court; but nothing in this section applies to motions refused for informality in the papers or proceedings necessary to obtain the order, or to motions refused with liberty to renew the same.

10,183. Violations of preceding section.

SEC. 183. A violation of the last section may be punished as a contempt; and an order made contrary thereto may be revoked by the judge or commissioner who made it, or vacated by a judge of the court in which the action or proceeding is pending.

10,184. Proceedings not affected by vacancy in office.

SEC. 184. No proceeding in any court of justice, in an action or special proceeding pending therein, shall be affected by a vacancy in the office of all or any of the judges thereof.

10,185. Proceedings to be in English language.

SEC. 185. Every written proceeding in a court of justice in this State shall be in the English language, and judicial proceedings shall be conducted, preserved, and published in no other.

10,186. Abbreviations and figures.

SEC. 186. Such abbreviations as are in common use may be used, and numbers may be expressed by figures or numerals in the customary manner.

10,187. *Means to carry jurisdiction into effect.*

SEC. 187. When jurisdiction is, by the constitution or this Code, or by any other statute, conferred on a court or judicial officer, all the means necessary to carry it into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding be not specifically pointed out by this Code or the statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of this Code.

TITLE III.

Persons Specially Invested with Powers of a Judicial Nature.

CHAPTER I. JURORS.

II. COURT COMMISSIONERS.

CHAPTER I.

JURORS.

ARTICLE I. JURORS IN GENERAL.

II. QUALIFICATIONS AND EXEMPTIONS OF JURORS.

III. OF SELECTING AND RETURNING JURORS FOR COURTS OF RECORD.

IV. OF DRAWING JURORS FOR COURTS OF RECORD.

V. OF SUMMONING JURORS FOR COURTS OF RECORD.

VI. OF SUMMONING JURORS FOR COURTS NOT OF RECORD.

VII. OF SUMMONING JURORS OF INQUEST.

VIII. OBEDIENCE TO SUMMONS, HOW ENFORCED.

IX. OF IMPANELING GRAND JURIES.

X. OF IMPANELING TRIAL JURIES IN COURTS OF RECORD.

XI. OF IMPANELING TRIAL JURIES IN COURTS NOT OF RECORD.

XII. OF IMPANELING JURIES OF INQUEST.

ARTICLE I.

JURORS IN GENERAL.

10,190 *Jury defined.*

SEC. 190. A jury is a body of men temporarily selected from the citizens of a particular district, and invested with power to present or indict a person for a public offense, or to try a question of fact.

10,191. *Different kinds of juries.*

SEC. 191. Juries are of three kinds:

1. Grand juries;
2. Trial juries;
3. Juries of inquest.

10,192. *Grand jury defined.*

SEC. 192. A grand jury is a body of men, nineteen in number, returned in pursuance of law, from the citizens of a county, or city and county, before a court of competent jurisdiction, and sworn to inquire of public offense committed or triable within the county, or city and county.

10,193. *Trial jury defined.*

SEC. 193. A trial jury is a body of men returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine, by verdict, a question of fact.

10,194. Number of trial jury.

Sec. 194. A trial jury shall consist of twelve men; provided, that in civil actions and cases of misdemeanor, it may consist of twelve, or of any number less than twelve, upon which the parties may agree in open court.

10,195. Jury of inquest defined.

Sec. 195. A jury of inquest, is a body of men summoned from the citizens of a particular district before the sheriff, coroner, or other ministerial officer, to inquire of particular facts.

ARTICLE II.**QUALIFICATIONS AND EXEMPTIONS OF JURORS.****10,198. Who competent to act as juror.**

Sec. 198. A person is competent to act as juror if he be:

1. A citizen of the United States of the age of twenty-one years, who shall have been a resident of the State one year, and of the county, or city and county, ninety days before being selected and returned;
2. In possession of his natural faculties, and of ordinary intelligence, and not decrepit;
3. Possessed of sufficient knowledge of the English language;
4. Assessed on the last assessment roll of the county, or city and county, on property belonging to him.

10,199. Who not competent to act as juror.

Sec. 199. A person is not competent to act as a juror:

1. Who does not possess the qualifications prescribed by the preceding section; or,
2. Who has been convicted of malfeasance in office, or any felony or other high crime.

10,200. Who exempt from jury duty.

Sec. 200. A person is exempt from liability to act as a juror if he be:

1. A judicial, civil, or military officer of the United States, or of this State;
2. A person holding a county, city and county, or township office;
3. An attorney at law;
4. A minister of the Gospel, or a priest of any denomination, following his profession;
5. A teacher in a university, college, academy, or school;
6. A practicing physician, or druggist, actually engaged in the business of dispensing medicines;
7. An officer, keeper, or attendant of an alms-house, hospital, asylum, or other charitable institution;
8. Engaged in the performance of duty as officer or attendant of the State prison, or of a county jail;
9. Employed on board of a vessel navigating the waters of this State;
10. An express agent, mail carrier, superintendent, employe, or operator of a telegraph line doing a general telegraph business in the State, or keeper of a public ferry or toll gate;
11. An active member of the national guard of California, or an active member of a fire department of any city and county, city, town, or village in this State, or an exempt member of a duly organized fire company who had become exempt from jury duty before the passage of this act;
12. A superintendent, engineer, or conductor on a railroad; or,
13. A person drawn as a juror in any court of record in this State, upon a

regular panel, who has served as such within a year; but this exemption shall not extend to a person who is summoned as a juror for the trial of a particular case.

10,201. *Who may be excused.*

SEC. 201. A juror shall not be excused by a court for slight or trivial cause, or for hardship or inconvenience to his business, but only when material injury or destruction to his property, or of property intrusted to him, is threatened, or when his own health, or the sickness or death of a member of his family, requires his absence.

10,202. *Affidavit of claim to exemption.*

SEC. 202. If a person, exempt from liability to act as a juror as provided in section two hundred, be summoned as a juror, he may make and transmit his affidavit to the clerk of the court for which he is summoned, stating his office, occupation, or employment; and such affidavit shall be delivered by the clerk to the judge of the court where the name of such person is called, and if sufficient in substance, shall be received as an excuse for non-attendance in person. The affidavit shall then be filed by the clerk.

ARTICLE III.

OF SELECTING AND RETURNING JURORS FOR COURTS OF RECORD.

10,204. *Jury lists, by whom and when to be made.*

SEC. 204. Within thirty days after the passage of this act the superior court in each of the counties of this State shall make an order designating the number of grand jurors, and also the number of trial jurors that, in the opinion of said court, will be required for the transaction of the business of said court during the year ending on the first day of January, eighteen hundred and eighty-one; and thereafter, in the month of January in each year, it shall be the duty of said court to make an order designating the estimated number of grand jurors, and also the number of trial jurors, that will, in the opinion of said court, be required for the transaction of the business of the court, and the court and the trial of causes therein, during the ensuing year. And immediately after said order shall be made, the board of supervisors shall select, as provided in the next section, a list of persons to serve as grand jurors and trial jurors in the superior court of said county during the ensuing year, or until a new list of jurors shall be provided. In cities and counties having over one hundred thousand inhabitants, such selection shall be made by the judges of the superior court.

10,205. *How selection shall be made.*

SEC. 205. They shall proceed to select and list from those assessed on the last preceding assessment roll of such county, or city and county, suitable persons competent to serve as jurors; and in making such selection they shall take the names of such only as are not exempt from serving, who are in possession of their natural faculties and not infirm or decrepit, of fair character, of approved integrity, and of sound judgment.

10,206. *Lists to contain how many names.*

SEC. 206. The list to be made shall contain the number of persons which shall have been designated by the court. The names for such list shall be selected from the different wards or townships of the respective counties in proportion to the number of inhabitants therein, as nearly as the same can be estimated by the persons making such list.

10,208. Lists to be placed with clerk.

SEC. 208. Certified lists of the persons selected to serve as jurors shall at once be placed in the possession of the county clerk.

10,209. Duty of clerk—Jury box.

SEC. 209. On receiving such lists, the county clerk shall file the same in his office, and write down the names contained thereon on separate pieces of paper of the same size and appearance, and fold each piece so as to conceal the name thereon. He shall deposit the pieces of paper having on them the names of the persons selected in a box, to be called the "jury box."

10,210. Regular jurors to serve one year.

SEC. 210. The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.

10,211. Jurors to be drawn from box.

SEC. 211. The names of persons, whether for grand or trial jurors, shall be drawn from the "jury box;" and if, at the end of the year, there shall be the names of persons in the "jury box" who may not have been drawn during the year to serve as jurors, the names of such persons may be placed upon the lists of jurors drawn for the succeeding year.

ARTICLE IV.**OF DRAWING JURORS FOR COURTS OF RECORD.****10,214. Order of judge or judges for drawing of jury.**

SEC. 214. Whenever the business of the superior court shall require the attendance of a trial jury for the trial of criminal cases, or where a trial jury shall have been demanded in any cause or causes at issue in said court, and no jury is in attendance, the court may make an order directing a trial jury to be drawn, and summoned to attend before said court. Such order shall specify the number of jurors to be drawn, and the time at which the jurors are required to attend. And the court may direct that such causes, either criminal or civil, in which a jury may be required, or in which a jury may have been demanded, be continued, and fixed for trial when a jury shall be in attendance.

10,215. Sheriff to be notified.

SEC. 215. Immediately upon the order mentioned in the preceding section being made, the clerk shall, in the presence of the court, proceed to draw the jurors from the "jury box."

10,219. Drawing, how conducted.

SEC. 219. The clerk must conduct said drawing as follows:

1. He must shake the box containing the names of jurors so as to mix the slips of paper upon which such names are written as well as possible; he must then draw from the box as many slips of paper as are ordered by the court.

2. A minute of the drawing shall be entered in the minutes of the court, which must show the name contained on every slip of paper so drawn from the "jury box."

3. If the name of any person is drawn from the box who is deceased or insane, or who may have permanently removed from the county, or who is exempt from jury service, and the fact shall be made to appear to the satisfaction of the court, the name of such person shall be omitted from the list,

and the slip of paper containing such name be destroyed, and another juror drawn in his place, and the fact shall be entered upon the minutes of the court. The same proceeding shall be had as often as may be necessary until the whole number of jurors required are drawn.

After the drawing shall be completed, the clerk shall make a copy of the list of names of the persons so drawn, and certify the same. In his certificate he shall state the date of the order and of the drawing, and the number of jurors drawn, and the time when and the place where such jurors are required to appear. Such certificate and list shall be delivered to the sheriff for service.

10,220. *Preservation of ballots drawn.*

Sec. 220. After a drawing of persons to serve as jurors, the clerk shall preserve the ballots drawn, and at the close of the session or sessions for which the drawing was had, he shall replace in the proper box from which they were taken all ballots which have on them the names of persons who did not serve as jurors for the session or sessions aforesaid, and who were not exempt or incompetent.

ARTICLE V.

OF SUMMONING JURORS FOR COURTS OF RECORD.

10,225. *Sheriff to summon jurors; how.*

Sec. 225. The sheriff, as soon as he receives the list or lists of jurors drawn, shall summon the persons named therein to attend the court at the opening of the regular session thereof, or at such session or time as the court may order, by giving personal notice to that effect to each of them, or by leaving a written notice to that effect at his place of residence, with some person of proper age, and shall return the list to the court at the opening of the regular session thereof, or at such session or time as the jurors may be ordered to attend, specifying the names of those who were summoned, and the manner in which each person was notified.

10,226. *Of drawing and summoning jurors to attend forthwith.*

Sec. 226. Whenever jurors are not drawn or summoned to attend any court of record or session thereof, or a sufficient number of jurors fail to appear, such court may order a sufficient number to be forthwith drawn and summoned to attend the court, or it may, by an order entered in its minutes, direct the sheriff, or an elisor chosen by the court, forthwith to summon so many good and lawful men of the county, or city and county, to serve as jurors, as may be required, and in either case such jurors must be summoned in the manner provided in the preceding section.

10,227. *Of summoning jurors to complete a panel.*

Sec. 227. Where there are not competent jurors enough to form a panel the court may direct the sheriff, or an elisor chosen by the court, to summon a sufficient number of persons having the qualifications of jurors to complete the panel from the body of the county, or city and county, and not from the bystanders; and the sheriff or elisor shall summon the number so ordered accordingly and return the names to the court.

10,228. *Compensation of elisor.*

Sec. 228. An elisor who shall, by order of a court of record, summon persons to serve as jurors, shall be entitled to a reasonable compensation for his services, which must be fixed by the court, and paid out of the county, or city and county treasury, and out of the general fund thereof.

ARTICLE VI.

OF SUMMONING JURORS FOR COURTS NOT OF RECORD.

10,230. *Jurors for justices' or police courts.*

SEC. 330. When jurors are required in any of the justices' courts, or in any police or other inferior court, they shall, upon the order of the justice, or any one of the justices where there is more than one, or if the judge thereof be summoned by the sheriff, constable, marshal, or policeman of the jurisdiction.

10,231. *How to be summoned.*

SEC. 231. Such jurors must be summoned from the persons competent to serve as jurors, residents of the city and county, township, city, or town in which such court has jurisdiction, by notifying them orally that they are summoned, and of the time and place at which their attendance is required.

10,232. *Officer's return.*

SEC. 232. The officer summoning such juror shall, at the time fixed in the order for their appearance, return it to the court with a list of the persons summoned indorsed thereon.

ARTICLE VII.

OF SUMMONING JURIES OF INQUEST.

10,235. *How to be summoned.*

SEC. 235. Juries of inquest shall be summoned by the officer before whom the proceedings in which they are to sit are to be had, or by any sheriff, constable, or policeman, from the persons competent to serve as jurors, resident of the county, or city and county, by notifying them orally that they are so summoned, and of the time and place at which their attendance is required.

ARTICLE VIII.

OBEDIENCE TO SUMMONS, HOW ENFORCED.

10,233. *Attachment and fine.*

SEC. 238. Any juror summoned, who willfully and without reasonable excuse fails to attend, may be attached and compelled to attend; and the court may also impose a fine not exceeding fifty dollars, upon which execution may issue. If the juror was not personally served, the fine must not be imposed until upon an order to show cause an opportunity has been offered the juror to be heard.

ARTICLE IX.

OF IMPANELING GRAND JURIES.

10,241. *Grand jury, when to be impaneled.*

SEC. 241. Every superior court, whenever in the opinion of the court the public interests may require it, must make and file with the county clerk of their respective counties an order directing a jury to be drawn, and designating the number which, in case of a grand jury, shall not be less than twenty-five nor more than thirty. In all counties having less than three superior judges there shall be one grand jury drawn and impaneled in each year, and in all counties having three or more superior judges there shall be two grand juries drawn and impaneled in each year. Such order must designate the time at which the drawing will take place. The names of such jurors shall be drawn, the list of names certified and summoned as provided for drawing and summoning trial jurors; and the names of any persons drawn who may not be impaneled upon the grand jury may be again placed in the "jury box."

10,242. *How constituted.*

SEC. 242. When, of the persons summoned as grand jurors and not excused, nineteen are present, they shall constitute the grand jury. If more than nineteen of such persons are present, the clerk shall write their names on separate ballots, which he must fold so that the names can not be seen, place them in a box, and draw out nineteen of them, and the persons whose names are on the ballots so drawn shall constitute the grand jury. If less than nineteen of such persons are present, the panel may be filled as provided in section two hundred and twenty-six of this Code. And whenever, of the persons summoned to complete a grand jury, more shall attend than are required, the requisite number shall be obtained by writing the names of those summoned and not excused on ballots, depositing them in a box, and drawing as above provided.

10,243. *Manner of impaneling prescribed in Penal Code.*

SEC. 243. Thereafter such proceedings shall be had in impaneling the grand jury as are prescribed in part two of the Penal Code.

ARTICLE X.

OF IMPANELING TRIAL JURIES IN COURTS OF RECORD.

10,246. *Clerk to call list of jurors summoned.*

SEC. 246. At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned, and the court may then hear the excuses of jurors summoned. The clerk shall then write the names of the jurors present and not excused upon separate slips or ballots of paper, and fold such slips so that the names are concealed, and there, in the presence of the court, deposit the slips or ballots in a box, which must be kept sealed or locked until ordered by the court to be opened.

10,247. *Manner of impaneling prescribed in Part II.*

SEC. 247. Whenever thereafter a civil action is called by the court for trial, and a jury is required, such proceedings shall be had in impaneling the trial jury as are prescribed in part two of this Code. If the action be a criminal one, the jury shall be impaneled as prescribed in the Penal Code.

ARTICLE XI.

OF IMPANELING TRIAL JURIES IN COURTS NOT OF RECORD.

10,250. *Proceedings in forming jury.*

SEC. 250. At the time appointed for a jury trial in justices', police, or other inferior courts, the list of jurors summoned must be called, and the names of those attending and not excused must be written upon separate slips of paper, folded so as to conceal the names, and placed in a box, from which the trial jury must be drawn.

10,251. *Manner of impaneling.*

SEC. 251. Thereafter, if the action is a criminal one, the jury must be impaneled as provided in the Penal Code; if a civil one, as provided in part two of this Code.

ARTICLE XII.

OF IMPANELING JURIES OF INQUEST.

10,254. *Manner of impaneling.*

SEC. 254. The manner of impaneling juries of inquest is prescribed in the provisions of the different Codes relating to such inquests.

CHAPTER II.

COURT COMMISSIONERS.

10,258. *Appointment and qualifications.*

SEC. 258. The superior court of every city and county in the State may appoint six commissioners, to be designated each as "Court Commissioner" of such city and county; and the superior court of every other county in the State may appoint one commissioner, to be designated as "Court Commissioner" of such county. Such commissioners shall be citizens of the United States, and residents of the city and county, or county, in which they are appointed, and hold offices during the pleasure of the courts appointing them.

10,259. *Powers of court commissioners.*

SEC. 259. Every court commissioner shall have power:

1. To hear and determine *ex parte* motions for orders and writs, except orders or writs of injunction in the superior court of the county, or city and county, for which he is appointed; provided that he shall have power to hear and determine such motions only in the absence or inability to act of the judge or judges of the superior court of the county, or city and county;

2. To take proof and report his conclusions thereon as to any matter of fact other than an issue of fact raised by the pleadings, upon which information is required by the court; but any party to the proceedings may except to such report within five days after written notice that the same has been filed, and may argue his exceptions before the court on giving notice of motion for that purpose;

3. To take and approve bonds and undertakings whenever the same may be required in actions or proceedings in such superior courts, and to examine the sureties thereon when an exception has been taken to their sufficiency, and to administer oaths and affirmations, and take affidavits and depositions in any action or proceeding in any of the courts of this State, or in any matter or proceeding whatever, and to take acknowledgments and proof of deeds, mortgages, and other instruments requiring proof or acknowledgment for any purpose under the laws of this State;

4. To charge and collect the same fees for the performance of official acts as are now or may hereafter be allowed by law to notaries public in this State for like services; provided, that this subdivision shall not apply to any services of such commissioner, the compensation for which is expressly fixed by law;

5. To provide an official seal, upon which must be engraved the words "Court Commissioner" and the name of the county, or city and county, in which said commissioner resides;

6. To authenticate with his official seal his official acts.

TITLE IV.

Ministerial Officers of Courts of Justice.

CHAPTER I. OF MINISTERIAL OFFICERS GENERALLY.

II. SECRETARIES AND BAILIFFS OF THE SUPREME COURT.

III. PHONOGRAPHIC REPORTERS.

CHAPTER I.

OF MINISTERIAL OFFICERS GENERALLY.

10,262. *Election, powers and duties, where prescribed.*

Sec. 262. The modes and times of election, terms, powers, and duties of the attorney-general, clerk of the supreme court, reporter of the decisions of the supreme court, clerks, sheriffs, and coroners, are prescribed in the Political and Penal Codes.

CHAPTER II.

SECRETARIES AND BAILIFFS OF THE SUPREME COURT.

10,265. *Appointment.*

Sec. 265. The justices of the supreme court may appoint two secretaries and two bailiffs, who shall be citizens of the United States and of this State.

10,266. *Tenure of office and duties.*

Sec. 266. The secretaries and bailiffs shall hold their offices at the pleasure of the justices, and shall perform such duties as may be required of them by the court or any justice thereof.

CHAPTER III.

PHONOGRAPHIC REPORTERS.

10,268. *Phonographic reporters for supreme court; where provided for.*

Sec. 268. Phonographic reporters for the supreme court are provided for in part three of the Political Code.

10,269. *Phonographic reporters for superior courts; their appointment and duties.*

Sec. 269. The judge or judges of any superior court in the State may appoint a competent phonographic reporter, or as many such reporters as there are judges, to be known as official reporter or reporters of such court, and to hold office during the pleasure of the judge or judges appointing them. Such reporter, or any one of them, where there are two or more, shall, at the request of either party, or of the court in a civil action or proceeding, and on the order of the court, the district attorney, or the attorney for defendant in a criminal action or proceeding, take down in short-hand all the testimony, the objections made, the rulings of the court, the exceptions taken, and oral instructions given, and if directed by the court, or requested by either party, shall, within such reasonable time after the trial of such case as the court may designate, write out the same in plain, legible long-hand, and verify and file it with the clerk of the court in which the case was tried.

10,270. *Qualifications and test of competency.*

Sec. 270. No person shall be appointed to the position of official reporter of any court in this State, except upon satisfactory evidence of good moral character, and without being first examined as to his competency by at least three members of the bar practicing in said court, such members to be designated by the judge or judges of said court. The committee of members of the bar so

designated shall, upon the request of the judge or judges of said court, examine any person as to his qualifications whom said judge or judges may wish to appoint as official reporter; and no person shall be appointed to such position upon whose qualifications such committee shall not have reported favorably. The test of competency before such committee shall be as follows: The party examined must write in the presence of said committee at the rate of at least one hundred and fifty words per minute, for five consecutive minutes, upon matter not previously written by or known to him, immediately read the same back to the committee, and transcribe the same into long-hand writing, plainly and with accuracy. If he pass such test satisfactorily, the committee shall furnish him with a written certificate of that fact, signed by at least a majority of the members of the committee, which certificate shall be filed among the records of the court.

10,271. *Attention to duties—Reporters pro tempore.*

SEC. 271. The official reporter of any superior court shall attend to the duties of his office in person, except when excused for good and sufficient reason by order of the court, which order shall be entered upon the minutes of the court. Employment in his professional capacity elsewhere shall not be deemed a good and sufficient reason for such excuse. When the official reporter of any court has been excused in the manner provided in this section, the court may appoint an official reporter pro tempore, who shall perform the same duties and receive the same compensation during the term of his employment as the official reporter.

10,272. *Oath of office.*

SEC. 272. The official reporter of any court, or official reporter pro tempore, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office.

10,273. *Reports prima facie correct statements.*

SEC. 273. The report of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when written out in long-hand writing and certified as being a correct transcript of the testimony and proceedings in the case, shall be prima facie a correct statement of such testimony and proceedings.

10,274. *Fees.*

SEC. 274. The official reporter shall receive, as compensation for his services in civil actions and proceedings for taking notes, a sum, to be fixed by the court or judge thereof, not exceeding ten dollars per day, and for transcription a sum to be in like manner fixed, not exceeding twenty cents per hundred words; provided, that when said reporter performs services in taking notes in more than one cause on the same day, the court or judge thereof shall apportion to per diem allowed between the several actions or proceedings in which such notes are taken. The short-hand notes so taken shall immediately after the cause is submitted be filed with the clerk, but for the purpose of writing out said notes, the reporter may withdraw the same for a reasonable time. The reporter's fees for taking notes in civil cases shall be paid by the party in whose favor judgment is rendered, and shall be taxed up by the clerk of the court as costs against the party against whom judgment is rendered. In case of the failure of a jury to agree, the plaintiff must pay the reporter's fees for time employed, and for transcription ordered by plaintiff which have accrued up to the time of the discharge of the jury. In cases where a transcript has

been ordered by the court, the fees for transcription must be paid by the respective parties to the action in equal proportions, or by such of them and in such proportions as the court, in its discretion, may order; and no verdict or judgment shall be entered up, except the court shall otherwise order, until the reporter's fees are paid, or a sum equivalent thereto deposited with the clerk of the court therefor. In no case shall a transcript be paid for unless ordered either by the plaintiff or defendant, or by the court; nor shall the reporter be required in any civil case to transcribe his notes until the fees therefor be tendered him, or a sufficient amount to cover the same be deposited in the court for that purpose. The party ordering the reporter to transcribe any portion of the testimony or proceedings, must pay the fees of the reporter therefor. In criminal cases, where the testimony has been taken down or transcribed upon the order of the court, the fees of the reporter shall be certified by the court, and paid out of the treasury of the county, or city and county, in which the case is tried, upon the order of the court.

TITLE V.

Persons Specially Invested with Ministerial Powers relating to Courts of Justice.

CHAPTER I. ATTORNEYS AND COUNSELORS AT LAW.

II. OTHER PERSONS INVESTED WITH SUCH POWERS.

CHAPTER I.

ATTORNEYS AND COUNSELORS AT LAW.

10,275. *Who may be admitted as attorneys.*

SEC. 275. Any citizen or person resident of this State, who has bona fide declared his or her intention to become a citizen in the manner required by law, of the age of twenty-one years, of good moral character, and who possesses the necessary qualifications of learning and ability, is entitled to admission as attorney and counselor in all the courts of this State. All persons are attorneys of the supreme court who were on the first day of January, eighteen hundred and eighty, entitled to practice in the court superseded thereby.

10,276. *Qualifications.*

SEC. 276. Every applicant for admission as an attorney and counselor must produce satisfactory testimonials of good moral character, and undergo a strict examination in open court as to his qualifications by the justices of the supreme court, or by the justices sitting and holding one of the departments thereof; provided, that the several superior courts of this State may admit applicants to practice as attorneys and counselors in their respective courts, but not elsewhere, upon strict examination in open court, and not otherwise, and upon satisfactory testimonials of good moral character.

10,277. *Certificate of admission and license.*

SEC. 277. If, upon examination, he is found qualified, the supreme court, or department thereof before which he is examined, shall admit him as an attorney and counselor in all the courts of this State, and shall direct an order to be entered to that effect upon its records, and that a certificate of such record be given to him by the clerk of the court, which certificate shall be his license.

10,278. Oath.

SEC. 278. Every person on his admission must take an oath to support the constitution of the United States and the constitution of the State of California, and to faithfully discharge the duties of an attorney and counselor at law to the best of his knowledge and ability. A certificate of such oath must be indorsed upon the license.

10,279. Attorneys of other States.

SEC. 279. Every citizen of the United States, or person resident of this State, who has bona fide declared his intention to become a citizen in the manner required by law, who has been admitted to practice law in the highest court of a sister State, or of a foreign country, where the common law of England constitutes the basis of jurisprudence, may be admitted to practice in the courts of this State upon the production of his or her license, and satisfactory evidence of good moral character; but the court may examine the applicant as to his or her qualifications.

10,280. Roll of attorneys.

SEC. 280. Every clerk shall keep a roll of attorneys and counselors admitted to practice by the court of which he is clerk, which roll must be signed by the person admitted before he receives his license.

10,281. Penalty for practicing without license.

SEC. 281. If any person shall practice law in any court, except a justice's court or police court, without having received a license as attorney and counselor, he shall be guilty of a contempt of court.

10,282. Duties.

SEC. 282. It is the duty of an attorney and counselor:

1. To support the constitution and laws of the United States and of this State;
2. To maintain the respect due to the courts of justice and judicial officers;
3. To counsel or maintain such actions, proceedings, or defenses only as appear to him legal or just, except the defense of a person charged with a public offense;
4. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law;
5. To maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client;
6. To abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged;
7. Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest;
8. Never to reject, for any consideration personal to himself, the cause of the defenseless or the oppressed.

10,283. Authority.

SEC. 283. An attorney and counselor shall have authority:

1. To bind his client in any of the steps of an action or proceeding by his agreement filed with the clerk, or entered upon the minutes of the court, and not otherwise;
2. To receive money claimed by his client in an action or proceeding during the pendency thereof, or after judgment, unless a revocation of his authority is

filed, and upon the payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

10,284. *Change of attorney.*

SEC. 284. The attorney in an action or special proceeding may be changed at any time before or after judgment or final determination, as follows:

1. Upon consent of both client and attorney, filed with the clerk, or entered upon the minutes;
2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other.

10,285. *Notice of change.*

SEC. 285. When an attorney is changed, as provided in the last section, written notice of the change and of the substitution of a new attorney, or of the appearance of the party in person, must be given to the adverse party. Until then he must recognize the former attorney.

10,286. *Death or removal of attorney.*

SEC. 286. When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action, for whom he was acting as attorney, must, before any further proceedings are had against him, be required by the adverse party, by written notice, to appoint another attorney, or to appear in person.

10,287. *Removal and suspension.*

SEC. 287. An attorney and counselor may be removed or suspended by the supreme court, or any department thereof, or by any superior court of the State, for either of the following causes, arising after his admission to practice:

1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence;
2. Willful disobedience or violation of an order of the court requiring him to do or forbear an act connected with, or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney and counselor;
3. Corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding;
4. Lending his name to be used as attorney and counselor by another person who is not an attorney and counselor.

In all cases where an attorney is removed or suspended by a superior court, the judgment or order of removal or suspension may be reviewed on appeal by the supreme court.

10,288. *Conviction of felony.*

SEC. 288. In case of the conviction of an attorney or counselor of a felony or misdemeanor, involving moral turpitude, the clerk of the court in which such conviction is had shall, within thirty days thereafter, transmit to the supreme court a certified copy of the record of conviction.

10,289. *Proceedings for removal or suspension.*

SEC. 289. The proceedings to remove or suspend an attorney and counselor, under the first subdivision of section two hundred and eighty-seven, must be taken by the court on the receipt of a certified copy of the record of conviction. The proceedings under the second, third, or fourth subdivision of section two hundred and eighty-seven may be taken by the court for the matters within its knowledge, or may be taken upon the information of another.

10,290. *Accusation*

SEC. 290. If the proceedings are upon the information of another, the accusation must be in writing.

10,291. *Verification*

SEC. 291. The accusation must state the matters charged, and be verified by the oath of some person to the effect that the charges therein contained are true.

10,292. *Citation*

SEC. 292. Upon receiving the accusation, the court shall make an order requiring the accused to appear and answer it at a specified time, and shall cause a copy of the order and of the accusation to be served upon the accused at least five days before the day appointed in the order.

10,293. *Appearance*

SEC. 293. The accused must appear at the time appointed in the order, and answer the accusation, unless, for sufficient cause, the court assign another day for that purpose. If he do not appear, the court may proceed and determine the accusation in his absence.

10,294. *Objections to accusation*

SEC. 294. The accused may answer to the accusation either by objecting to its sufficiency or denying it.

10,295. *Demurrer*

SEC. 295. If he object to the sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection. If he deny the accusation, the denial may be oral and without oath, and must be entered upon the minutes.

10,296. *Answer*

SEC. 296. If an objection to the sufficiency of the accusation be not sustained, the accused must answer within such time as may be designated by the court.

10,297. *Trial*

SEC. 297. If the accused plead guilty, or refuse to answer the accusation, the court shall proceed to judgment of removal or suspension. If he deny the matters charged, the court shall, at such time as it may appoint, proceed to try the accusation.

10,298. *Reference to take depositions*

SEC. 298. The court may, in its discretion, order a reference to a committee to take depositions in the matter.

10,299. *Judgment*

SEC. 299. Upon conviction, in cases arising under the first subdivision of section two hundred and eighty-seven, the judgment of the court must be that the name of the party shall be stricken from the roll of attorneys and counselors of the court, and that he be precluded from practicing as such attorney or counselor in all the courts of this State; and upon conviction in cases under the other subdivisions of that section the judgment of the court may be according to the gravity of the offense charged; deprivation of the right to practice as attorney or counselor in the courts of this State permanently, or for a limited period.

CHAPTER II.

OTHER PERSONS INVESTED WITH SUCH POWERS.

10,304. *Receivers, executors, administrators, and guardians.*

SEC. 304. The appointment, powers, and duties of receivers, executors, administrators, and guardians are provided for and prescribed in parts two and three of this Code.

[The foregoing section ends Part I, which was entirely amended, and the foregoing Part I adopted as a substitute therefor, by act approved April 1, 1880; Amendments 1880, 21 (Ban. ed. 63); took effect immediately; repealed all acts and parts of acts in conflict therewith.]

LIMITATIONS.

10,325. *What constitutes adverse possession under claim of title not written.*

SEC. 325. For the purpose of constituting an adverse possession by a person claiming title, not founded upon a written instrument, judgment, or decree, land is deemed to have been possessed and occupied in the following cases only:

First—Where it has been protected by a substantial inclosure.

Second—Where it has been usually cultivated or improved.

Provided, however, that in no case shall adverse possession be considered established under the provision of any section or sections of this Code, unless it shall be shown that the land has been occupied and claimed for the period of five years continuously, and the party or persons, their predecessors and grantors, have paid all the taxes, State, county, or municipal, which have been levied and assessed upon such land. [*Amendment, approved April 1, 1878; Amendments 1877-8, 99; took effect sixtieth day after passage.*]

PARTIES.

10,367. *Action to be in name of party in interest.*

SEC. 367. Every action must be prosecuted in the name of the real party in interest, except as provided in section three hundred and sixty-nine of this Code. [*Amendment, approved April 15, 1880; Amendments 1880, 63 (Ban. ed. 235); took effect immediately.*]

10,372. *Infant, insane, or incompetent person to appear by guardian.*

SEC. 372. When an infant, or an insane or incompetent person is a party, he must appear either by his general guardian or by a guardian ad litem appointed by the court in which the action is pending, in each case. A guardian ad litem may be appointed in any case, when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to represent the infant, insane, or incompetent person in the action or proceeding, notwithstanding he may have a general guardian and may have appeared by him. [*Amendment, approved April 15, 1880; Amendments 1880, 63 (Ban. ed. 235); took effect immediately.*]

10,373. *Guardian, how appointed.*

SEC. 373. When a guardian ad litem is appointed by the court, he must be appointed as follows:

1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

2. When the infant is defendant, upon the application of the infant, if he be

of the age of fourteen years, and apply within ten days after the service of the summons, or if under that age, or if he neglect so to apply, then upon the application of a relative or friend of the infant, or of any other party to the action.

3. When an insane or incompetent person is a party to an action or proceeding, upon the application of a relative or friend of such insane or incompetent person, or of any other party to the action or proceeding. [*Amendment, approved April 15, 1880; Amendments 1880, 63 (Ban. ed. 235); took effect immediately.*]

MANNER OF COMMENCING ACTIONS.

10,407. *Summons, how issued, directed, and what to contain.*

SEC. 407. The summons must be directed to the defendant, signed by the clerk, and issued under the seal of the court, and must contain:

1. The names of the parties to the action, the court in which it is brought, and the county in which the complaint is filed.

2. A statement of the nature of the action in general terms.

3. A direction that the defendant appear and answer the complaint within ten days, if the summons is served within the county in which the action is brought; within thirty days, if served elsewhere.

4. In an action arising on contract, for the recovery of money or damages only, a notice that unless the defendant so appears and answers, the plaintiff will take judgment for the sum demanded in the complaint (stating it).

5. In other actions, a notice that unless defendant so appears and answers, the plaintiff will apply to the court for the relief demanded in the complaint. The name of the plaintiff's attorney must be indorsed on the summons. [*Amendment, approved March 26, 1880; Amendments 1880, 13 (Ban. ed. 51); took effect immediately.*]

10,412. *Publication of summons, when.*

SEC. 412. Where the person on whom the service is to be made resides out of the State, or has departed from the State, or can not, after due diligence, be found within the State, or conceals himself to avoid the service of summons, or is a foreign corporation, having no managing or business agent, cashier or secretary within the State, and the fact appears by affidavit to the satisfaction of the court or a judge thereof, and it also appears by such affidavit, or by the verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a necessary or proper party to the action, such court or judge may make an order that the service be made by the publication of the summons. [*Amendment, approved March 26, 1880; Amendments 1880, 13 (Ban. ed. 51); took effect immediately.*]

10,416.

An Act concerning actions for libel and slander.

Approved March 23, 1872; 1871-2, 533.

[This act was amended in 1880 as follows:]

Exceptions to sureties.

SEC. 3. Within ten days after the service of the summons, the defendants, or either of them, may give to the plaintiff, or his attorney, notice that they or he except to the sureties, and require their justification before a judge of the court at a specified time and place, the time to be not less than five or more than ten days thereafter, except by consent of parties. The qualifications of the sureties shall be as required in their affidavits. [*Amendment, approved April 16, 1880; 1880, 81 (Ban. ed. 312); took effect immediately.*]

PLEADINGS.

10,432. *What proceedings are to be had when complaint is amended.*

Sec. 432. If the complaint is amended, a copy of the amendments must be filed, or the court may, in its discretion, require the complaint as amended to be filed, and a copy of the amendments or amended complaint must be served upon the defendants affected thereby. The defendant must answer the amendments, or the complaint as amended, within ten days after service thereof, or such other time as the court may direct, and judgment by default may be entered upon failure to answer, as in other cases. [*Amendment, approved March 9, 1880; Amendments 1880, 2 (Ban. ed. 15); took effect immediately.*]

10,449. *Execution of an instrument when not deemed admitted.*

Sec. 449. But the execution of the instrument mentioned in the two preceding sections, is not deemed admitted by a failure to deny the same under oath, if the party desiring to controvert the same is, upon demand, refused an inspection of the original. Such demand must be in writing, served by copy, upon the adverse party or his attorney, and filed with the papers in the case. [*Amendment, approved April 16, 1880; Amendments 1880, 111 (Ban. ed. 339); took effect from passage.*]

10,454. *How to state an account in pleading.*

Sec. 454. It is not necessary for a party to set forth in a pleading the items of an account therein alleged, but he must deliver to the adverse party, within five days after a demand thereof in writing, a copy of the account, or be precluded from giving evidence thereof. The court or judge thereof may order a further account when the one delivered is too general, or is defective in any particular. [*Amendment, approved March 9, 1880; Amendments 1880, 2 (Ban. ed. 15); took effect immediately.*]

10,473. *Amendments—Enlarging time to plead and relieving from judgments, etc.*

Sec. 473. The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this Code; and may, also, upon such terms as may be just, relieve a party or his legal representative from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise, or excusable neglect; provided, that application therefor be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken. When from any cause the summons in an action has not been personally served on the defendant, the court may allow, on such terms as may be just, such defendant or his legal representative, at any time within one year after the rendition of any judgment in such action, to answer to the merits of the original action. When, in an action to recover the possession of personal property, the person making any affidavit did not truly state the value of the property, and the officer taking the property, or the sureties on any bond or undertaking is sued for taking the same, the officer or sureties may in their answer set up the true value of the property, and that the person in whose behalf said affidavit was made was entitled to the possession of the same when said affidavit was

made, or that the value in the affidavit stated was inserted by mistake, the court shall disregard the value as stated in the affidavit, and give judgment according to the right of possession of said property at the time the affidavit was made. [*Amendment, approved March 9, 1880; Amendments 1880, 2 (Ban. ed. 15); took effect immediately.*]

PROVISIONAL REMEDIES.

10,480. *Order of arrest, by whom made.*

SEC. 480. An order for the arrest of the defendant must be obtained from a judge of the court in which the action is brought. [*Amendment, approved March 9, 1880; Amendments 1880, 3 (Ban. ed. 16); took effect immediately.*]

10,493. *Notice of justification.*

SEC. 493. Within five days after the receipt of notice, the sheriff or defendant may give to the plaintiff or his attorney notice of the justification of the same, or other bail (specifying the places of residence and occupations of the latter), before a judge of the court or county clerk, at a specified time and place; the time to be not less than five nor more than ten days thereafter, except by consent of parties. In case other bail be given, there must be a new undertaking. [*Amendment, approved March 9, 1880; Amendments, 1880, 3 (Ban. ed. 16); took effect immediately.*]

10,525. *Injunction, what is and who may grant it.*

SEC. 525. An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the court in which the action is brought, or by a judge thereof, and when made by a judge it may be enforced as an order of the court. [*Amendment, approved March 9, 1880; Amendments, 1880, 3 (Ban. ed. 17); took effect immediately.*]

10,529. *Security upon injunction—Exception to securities.*

SEC. 529. On granting an injunction, the court or judge must require, except when the people of the State, a county, or municipal corporation, or a married woman in a suit against her husband is a party plaintiff, a written undertaking on the part of the plaintiff, with sufficient sureties, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decide that the plaintiff was not entitled thereto. Within five days after the service of the injunction, the defendant may except to the sufficiency of the sureties. If he fails to do so he is deemed to have waived all objections to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two nor more than five days, must justify before a judge or county clerk in the same manner as upon bail on arrest, and upon failure to justify, or if others in their place fail to justify at the time and place appointed, the order granting an injunction shall be dissolved. [*Amendment, approved April 15, 1880; Amendments 1880, 62 (Ban. ed. 222); took effect immediately.*]

10,540.

An Act relative to the powers and duties of the sheriff of Alameda County, in the matter of attachments of property in said county.

Approved April 1, 1878; 1877-8, 922.

[This act provided that the sheriff should be allowed three dollars per day for a keeper in attachment cases, to be paid by the party requiring the keeper. In case no keeper was required, the sheriff was to charge and retain such moneys as might be necessarily disbursed by him in taking and keeping

property. He was also to retain one half the mileage allowed by law to cover expenses.]

10,548. *Property attached may be sold as under execution, if interests of parties require.*

SEC. 548. Whenever property has been taken by an officer under a writ of attachment, and it is made to appear satisfactorily to the court or a judge thereof that the interest of the parties to the action will be subserved by a sale thereof, the court or judge may order such property to be sold in the same manner as property is sold under an execution, and the proceeds to be deposited in the court to abide the judgment in the action. Such order can be made only upon notice to the adverse party or his attorney, in case such party has been personally served with a summons in the action. [*Amendment, approved March 9, 1880; Amendments 1880, 3 (Ban. ed. 17); took effect immediately.*]

10,554. *Proceedings to release attachments.*

SEC. 554. Whenever the defendant has appeared in the action he may, upon reasonable notice to the plaintiff, apply to the court in which the action is pending, or to the judge thereof, for an order to discharge the attachment, wholly or in part; and upon the execution of the undertaking mentioned in the next section, an order may be made releasing from the operation of the attachment any or all of the property attached; and all of the property so released, and all of the proceeds of the sales thereof, must be delivered to the defendant upon the justification of the sureties on the undertaking, if required by the plaintiff. [*Amendment, approved March 9, 1880; Amendments 1880, 4 (Ban. ed. 17); took effect immediately.*]

10,556. *Motion to discharge attachment.*

SEC. 556. The defendant may also at any time, either before or after the release of the attached property, or before any attachment shall have been actually levied, apply, on motion, upon reasonable notice to the plaintiff, to the court in which the action is brought, or to a judge thereof, that the writ of attachment be discharged on the ground that the same was improperly or irregularly issued. [*Amendment, approved March 9, 1880; Amendments 1880, 4 (Ban. ed. 17); took effect immediately.*]

10,565. *Appointment of receiver upon dissolution of corporations.*

SEC. 565. Upon the dissolution of any corporation, the superior court of the county in which the corporation carries on its business or has its principal place of business, on application of any creditor of the corporation, or of any stockholder or member thereof, may appoint one or more persons to be receivers or trustees of the corporation, to take charge of the estate and effects thereof, and to collect the debts and property due and belonging to the corporation, and to pay the outstanding debts thereof, and to divide the moneys and other property that shall remain over among the stockholders or members. [*Amendment, approved March 9, 1880; Amendments 1880, 4 (Ban. ed. 17); took effect from passage.*]

TRIAL AND JUDGMENT.

10,581. *Action may be dismissed or nonsuit entered.*

SEC. 581. An action may be dismissed, or a judgment of nonsuit entered, in the following cases:

First—By the plaintiff himself, at any time before trial, upon payment of costs, provided, a counter claim has not been made or affirmative relief sought by the cross complaint or answer of defendant. If a provisional remedy has

been allowed, the undertaking must thereupon be delivered by the clerk to the defendant, who may have his action thereon.

Second—By either party, upon the written consent of the other.

Third—By the court, when the plaintiff fails to appear on the trial, and the defendant appears and asks for the dismissal.

Fourth—By the court, when, upon the trial and before the final submission of the case, the plaintiff abandons it.

Fifth—By the court, upon motion of the defendant, when, upon the trial, the plaintiff fails to prove a sufficient case for the jury.

The dismissal mentioned in the first two subdivisions is made by an entry in the clerk's register. Judgment may thereupon be entered accordingly. [*Amendment, approved February 25, 1878; Amendments 1877-8, 100; took effect sixtieth day after passage.*]

10,593. *Clerk must enter causes on calendar—When dropped and restored.*

SEC. 593. The clerk must enter causes upon the calendar of the court according to the date of issue. Causes once placed on the calendar must remain upon the calendar until finally disposed of; provided, that causes may be dropped from the calendar by consent of parties, and may be again restored upon notice. [*Amendment, approved March 9, 1880; Amendments 1880, 5 (Ban. ed. 18); took effect immediately.*]

10,595. *Motion to postpone a trial for absence of testimony, etc.—Requisites.*

SEC. 595. A motion to postpone a trial on the ground of the absence of evidence can only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it. A trial shall be postponed when it appears to the court that the attorney of record, party, or principal witness is actually engaged in attendance upon a session of the legislature of this State as a member thereof. The court may require the moving party, where application is made on account of the absence of a material witness, to state upon affidavit the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed. [*Amendment, approved March 2, 1880; Amendments 1880, 1 (Ban. ed. 14); took from passage.*]

10,613. *Deliberation of jury, how conducted.*

SEC. 613. When the case is finally submitted to the jury, they may decide in court or retire for deliberation; if they retire, they must be kept together, in some convenient place, under charge of an officer, until at least three fourths of them agree upon a verdict or are discharged by the court. Unless by order of the court, the officer having them under his charge must not suffer any communication to be made to them, or make any himself, except to ask them if they or three fourths of them are agreed upon a verdict, and he must not, before their verdict is rendered, communicate to any person the state of their deliberations, or the verdict agreed upon. [*Amendment, approved March 10, 1880; Amendments 1880, 10 (Ban. ed. 23); took effect immediately.*]

10,617. *While jury are absent, court may adjourn from time to time—Sealed verdict.*

SEC. 617. While the jury are absent the court may adjourn from time to time, in respect to other business; but it is nevertheless open for every purpose connected with the cause submitted to the jury, until a verdict is rendered or the jury discharged. The court may direct the jury to bring in a sealed verdict, at

the opening of the court, in case of an agreement during a recess or adjournment for the day. [*Amendment, approved March 10, 1880; Amendments 1880, 10 (Ban. ed. 23); took effect immediately.*]

10,618. *Verdict, how declared—Form of—Polling the jury.*

SEC. 618. When the jury, or three fourths of them, have agreed upon a verdict, they must be conducted into court, their names called by the clerk, and the verdict rendered by their foreman; the verdict must be in writing, signed by the foreman, and must be read by the clerk to the jury, and the inquiry made whether it is their verdict. Either party may require the jury to be polled, which is done by the court or clerk asking each juror if it is his verdict; if upon such inquiry or polling, more than one fourth of the jurors disagree thereto, the jury must be sent out again, but if no such disagreement be expressed, the verdict is complete and the jury discharged from the case. [*Amendment, approved March 10, 1880; Amendments 1880, 10 (Ban. ed. 23); took effect immediately.*]

10,663.

[Sec. 663, relating to where motions might be heard, was repealed by act of April 15, 1880; Amendments 1880, 64 (Ban. ed. 237); took effect immediately.]

An Act in relation to the currency of the United States.

Approved March 12, 1880; 1880, 8 (Ban. ed. 28).

10,667. *Legal tender notes to be received at par.*

SECTION 1. All legal tender notes heretofore issued, or which may hereafter be issued by the government of the United States of America, as legal tender notes, shall be received at par in payment for all taxes due or to become due to this State, or to any county or municipal corporation thereof, and such notes shall be a legal tender for all debts, dues, and demands between citizens of this State.

SEC. 2. All acts and the provisions of any act or parts of acts conflicting with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

EXECUTION.

10,690. *What exempt from execution.*

SEC. 690. The following property is exempt from execution, except as herein otherwise specially provided:

First—Chairs, tables, desks, and books, to the value of two hundred dollars, belonging to the judgment debtor.

Second—Necessary household, table, and kitchen furniture belonging to the judgment debtor, including one sewing-machine, stoves, stove pipes, and furniture, wearing apparel, beds, bedding, and bedsteads, hanging pictures, oil paintings, and drawings drawn or painted by any member of the family, and family portraits and their necessary frames, provisions actually provided for individual or family use sufficient for three months, and three cows and their sucking calves, four hogs with their sucking pigs, and food for such cows and hogs for one month.

Third—The farming utensils or implements of husbandry of the judgment debtor; also two oxen, or two horses, or two mules, and their harness, one cart or wagon, and food for such oxen, horses, or mules for one month; also, all seed, grain, or vegetables actually provided, reserved, or on hand for the purpose of planting or sowing at any time within the ensuing six months, not

exceeding in value the sum of two hundred dollars, and seventy-five bee hives, and one horse and vehicle belonging to any person who is maimed or crippled, and the same is necessary in his business.

Fourth—The tools or implements of a mechanic or artisan necessary to carry on his trade; the notarial seal, records, and office furniture of a notary public; the instruments and chest of a surgeon, physician, surveyor, or dentist necessary to the exercise of their profession, with their professional libraries and necessary office furniture; the professional libraries of attorneys, judges, ministers of the gospel, editors, school teachers, and music teachers, and their necessary office furniture; also, the musical instruments of music teachers actually used by them in giving instructions, and all the indexes, abstracts, books, papers, maps, and office furniture of a searcher of records, necessary to be used in his profession.

Fifth—The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also, his sluices, pipes, hose, windlass, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any mining operations, not exceeding in value the aggregate sum of five hundred dollars, and two horses, mules, or oxen, with their harness, and food for such horses, mules, or oxen for one month, when necessary to be used in any whim, windlass, derrick, car, pump, or hoisting gear, and also his mining claim actually worked by him, not exceeding in value the sum of one thousand dollars.

Sixth—Two horses, two oxen, or two mules, and their harness, and one cart or wagon, one dray or truck, one coupé, one hack or carriage for one or two horses, by the use of which a cartman, drayman, truckman, huckster, peddler, hackman, teamster, or other laborer habitually earns his living, and one horse, with vehicle and harness, or other equipments, used by a physician, surgeon, constable, or minister of the gospel, in the legitimate practice of his profession or business, with food for such oxen, horses, or mules for one month.

Seventh—Poultry not exceeding in value twenty-five dollars.

Eighth—The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit, or otherwise, that such earnings are necessary for the use of his family residing in this State, supported in whole or in part by his labor, but where debts are incurred by any such person, or his wife or family, for the common necessities of life, the one half of such earnings above mentioned are, nevertheless, subject to execution, garnishment, or attachment to satisfy debts so incurred.

Ninth—The shares held by a member of a homestead association duly incorporated, not exceeding in value one thousand dollars, if the person holding the shares is not the owner of a homestead under the laws of this State. All the nautical instruments and wearing apparel of any master, officer, or seaman of any steamer or other vessel.

Tenth—All moneys, benefits, privileges, or immunities accruing, or in any manner growing out of any life insurance on the life of the debtor, if the annual premiums paid do not exceed five hundred dollars.

Eleventh—All fire engines, hooks and ladders, with the carts, trucks, and carriages, hose, buckets, implements, and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under any law of this State.

Twelfth—All arms, uniforms, and accouterments required by law to be kept by any person, and, also, one gun to be selected by the debtor.

Thirteenth—All court-houses, jails, public offices, and buildings, lots, grounds, and personal property, the fixtures, furniture, books, papers, and appurtenances belonging and pertaining to the jail and public offices belonging to any county, or to any city and county of this State, and all cemeteries, public squares, parks, and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament, or public use, or for the use of any fire or military company organized under the laws of this State.

No article, however, or species of property mentioned in this section, is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage thereon. [*Amendment, approved April 1, 1878; Amendments 1877-8, 101; took effect sixtieth day after passage.*]

10,714. Debtor required to answer concerning his property, when.

SEC. 714. When an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, issued to the sheriff of the county where he resides, or if he do not reside in this State, to the sheriff of the county where the judgment roll is filed, is returned unsatisfied in whole or in part, the judgment creditor, at any time after such return is made, is entitled to an order from a judge of the court, requiring such judgment debtor to appear and answer concerning his property before such judge, or a referee appointed by him, at a time and place specified in the order; but no judgment debtor must be required to attend before a judge or referee out of the county in which he resides. [*Amendment, approved March 9, 1880; Amendments 1880, 5 (Ban. ed. 18); took effect immediately.*]

10,715. Proceedings to compel debtor to appear.

SEC. 715. After the issuing of an execution against property, and upon proof, by affidavit of a party or otherwise, to the satisfaction of a judge of the court, that any judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, such judge may, by an order, require the judgment debtor to appear, at a specified time and place, before such judge, or a referee appointed by him, to answer concerning the same; and such proceedings may thereupon be had for the application of the property of the judgment debtor toward the satisfaction of the judgment as are provided upon the return of an execution. Instead of the order requiring the attendance of the judgment debtor, the judge may, upon affidavit of the judgment creditor, his agent or attorney, if it appear to him that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him before such judge. Upon being brought before the judge, he may be ordered to enter into an undertaking, with sufficient surety, that he will attend from time to time before the judge or referee, as may be directed during the pendency of proceedings and until the final termination thereof, and will not in the mean time dispose of any portion of his property not exempt from execution. In default of entering into such undertaking he may be committed to prison. [*Amendment, approved March 9, 1880; Amendments, 1880, 5 (Ban. ed. 19); took effect immediately.*]

ACTIONS IN PARTICULAR CASES.

10,742. *Order to allow party to survey and measure land in dispute.*

SEC. 742. The court in which an action is pending for the recovery of real property, or for damages for an injury thereto, or a judge thereof may, on motion, upon notice by either party for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, and of any tunnels, shafts, or drifts therein, for the purpose of the action, even though entry for such purpose has to be made through other lands belonging to parties to the action. [*Amendment, approved March 10, 1880; Amendments 1880, 11 (Ban. ed. 24); took effect immediately.*]

10,755. *Plaintiff to record notice of his pendens.*

SEC. 755. Immediately after filing the complaint in the superior court, the plaintiff must record in the office of the recorder of the county, or of the several counties in which the property is situated, a notice of the pendency of the action, containing the names of the parties so far as known, the object of the action, and a description of the property to be affected thereby. From the time of filing such notice for record all persons shall be deemed to have notice of the pendency of the action. [*Amendment, approved March 9, 1880; Amendments 1880, 11 (Ban. ed. 24); took effect immediately.*]

10,763. *Court may order sale or partition, and appoint referees—When site of incorporated city or town is included.*

SEC. 763. If it be alleged in the complaint and established by evidence, or if it appear by the evidence without such allegation in the complaint to the satisfaction of the court, that the property or any part of it is so situated that partition can not be made without great prejudice to the owners, the court may order a sale thereof, otherwise, upon the requisite proofs being made, it must order a partition according to the respective rights of the parties as ascertained by the court, and appoint three referees therefor, and must designate the portion to remain undivided for the owners whose interests remain unknown, or are not ascertained; provided, that when the site of an incorporate city or town is included within the exterior boundaries of the property to be partitioned, then, on said fact being established by evidence, the following proceedings shall be had. The court shall thereupon direct the referees to survey and appraise the entire property to be partitioned by actual lots and subdivisions then existing in the actual possession of the several tenants in common, exclusive of the value of improvements thereon, first setting apart necessary portions of the property for ways, roads, and streets, as in section seven hundred and sixty-four of this Code provided, and to report such survey and separate appraisal on each lot and subdivision to the court. The court may confirm, change, modify or set aside the report in whole or in part, and, if necessary, appoint new referees. When, after the final confirmation of the report of such survey and appraisal, it shall appear by evidence to the satisfaction of the court that an equitable partition of the whole property is impracticable, and a sale of the site of such city or town, or any portion thereof, will be for the best interests of the owners of the whole property, it shall order a sale thereof; provided, that within sixty days thereafter any tenant in common, or tenants in common, having improvements erected on any town or city lot, or subdivision included in such order of sale, shall have the prior right to purchase the same at such appraised valuation, and may pay into court the amount so appraised as the value thereof, and upon such payment, the title shall vest in such purchaser or

purchasers, and the court shall cause to be executed by said referees a deed for such lot or subdivision in fee and in severalty to such purchaser or purchasers, such further proceedings shall then be had as to the remainder of the property, and the money so paid to the court, as by this chapter provided. If, during the pendency of the action, any of the parties die, or become insane or otherwise incompetent, the proceedings shall not for that cause be delayed or suspended, but the attorney who has appeared for such party may continue to represent such interest; and in case any such party has not appeared by an attorney, the court shall appoint an attorney to represent the interest which was held by such party, until his heirs or legal representatives, or successors in interest, shall have appeared in the action; and an attorney so appointed shall be allowed by the court a reasonable compensation for his services, which may be taxed as costs against the share or interest represented by such attorney, and may be adjudged a lien thereon, in the discretion of the court. [*Amendment, approved April 12, 1880; Amendments 1880, 59 (Ban. ed. 196); took effect immediately.*]

10,794. Guardian of insane person may receive proceeds of such party's interest.

SEC. 794. The guardian who may be entitled to the custody and management of the estate of an insane person, or other person adjudged incapable of conducting his own affairs, whose interest in real property has been sold, may receive in behalf of such person his share of the proceeds of such real property from the referees, on executing with sufficient sureties an undertaking approved by a judge of the court, that he will faithfully discharge the trust reposed in him, and will render a true and just account to the person entitled or to his legal representative. [*Amendment, approved March 10, 1880; Amendments 1880, 11 (Ban. ed. 24); took effect immediately.*]

10,802. Scire facias abolished.

SEC. 802. The writ of scire facias is abolished. [*Amendment, approved March 10, 1880; Amendments 1880, 11 (Ban. ed. 24); took effect immediately.*]

10,804. Name of person entitled to office may be set forth in complaint.

SEC. 804. Whenever such action is brought, the attorney-general, in addition to the statement of the cause of action, may also set forth in the complaint the name of the person rightly entitled to the office, with a statement of his right thereto; and in such case, upon proof by affidavit that the defendant has received fees or emoluments belonging to the office, and by means of his usurpation thereof, an order may be granted by a justice of the supreme court, or a judge of the superior court, for the arrest of such defendant and holding him to bail; and thereupon he may be arrested and held to bail in the same manner and with the same effect and subject to the same rights and liabilities as in other civil actions where the defendant is subject to arrest. [*Amendment, approved March 10, 1880; Amendments 1880, 11 (Ban. ed. 24); took effect immediately.*]

10,816. Summons may be served on owners, etc., of vessels.

SEC. 816. The summons and copy of the complaint must be served on the owners if they can be found; otherwise, they may be served on the master, mate, or person having charge of the steamer, vessel, or boat. [*Amendment, approved March 10, 1880; Amendments 1880, 12 (Ban. ed. 25); took effect immediately.*]

10,826. Proof of claims of mariners and others.

SEC. 826. If the claim of the mariner, boatman, or other person filed with

the clerk of the court, as provided in the last section, be not contested within five days after notice of the filing thereof by the owner, master, agent, or consignee of the steamer, vessel, or boat against which the claim is filed, or by any creditor, it shall be deemed admitted; but if contested, the clerk must indorse upon the affidavit thereof a statement that it is contested, and the grounds of the contest, and must immediately thereafter order the matter to a single referee for his determination, or he may hear the proofs and determine the matter himself. The judgment of the clerk or referee may be reviewed by a court in which the action is pending, or a judge thereof, immediately after the same is given, and the judgment of the court or judge shall be final. On the review the court or judge may use the minutes of the proofs taken by the clerk or referee, or may take the proofs anew. [*Amendment, approved March 10, 1880; Amendments 1880, 12 (Ban. ed. 25); took effect immediately.*]

PROCEEDINGS IN JUSTICES' COURTS.

10,838. *Transfer to superior court.*

SEC. 838. The parties to an action in a justice's court can not give evidence upon any question which involves the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine; nor can any issue presenting such question be tried by such court; and if it appear, from the answer of the defendant, verified by his oath, that the determination of the action will necessarily involve the question of title or possession to real property, or the legality of any tax, impost, assessment, toll, or municipal fine, the justice must suspend all further proceedings in the action and certify the pleadings, and, if any of the pleadings are oral, a transcript of the same, from his docket to the clerk of the superior court of the county; and from the time of filing such pleadings or transcript with the clerk, the superior court shall have over the action the same jurisdiction as if it had been commenced therein; provided, that in cases of forcible entry and detainer, of which justices' courts have jurisdiction, any evidence, otherwise competent, may be given, and any question properly involved therein may be determined. [*Amendment, approved March 26, 1880; Amendments 1880, 18 (Ban. ed. 56); took effect immediately.*]

10,843. *Infant, insane or incompetent person to appear by guardian.*

SEC. 843. When an infant, insane, or incompetent person is a party, he must appear either by his general guardian, if he have one, or by a guardian ad litem appointed by the justice. When a guardian ad litem is appointed by the justice, he must be appointed as follows;

1. If the infant, insane, or incompetent person be plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he be of the age of fourteen years; if under that age, or if insane or incompetent, upon the application of a relative or friend.

2. If the infant, insane or incompetent person, be defendant, the appointment must be made at the time the summons is returned, or before the answer, upon the application of the infant, if he be of the age of fourteen years and apply at or before the summons is returned; if he be under the age of fourteen, or be insane or incompetent, or neglect so to apply, then upon the application of a relative or friend, or any other party to the action, or by the justice on his own motion. [*Amendment, approved March 26, 1880; Amendments 1880, 18 (Ban. ed. 56); took effect immediately.*]

10,844. Summons, how issued, directed, and what to contain.

Sec. 844. The summons must be directed to the defendant, and signed by the justice, and must contain:

1. The title of the court, name of the county and city, or township, in which the action is commenced, and the names of the parties thereto.
2. A sufficient statement of the cause of action, in general terms, to apprise the defendant of the nature of the claim against him.
3. A direction that the defendant appear and answer before the justice, at his office, as specified in section eight hundred and forty-five of this Code.
4. In an action arising on a contract, for the recovery of money or damages only, a notice that unless the defendant so appear and answer, the plaintiff will take judgment for the sum claimed by him (stating it).
5. In other actions, a notice that unless defendant so appear and answer, the plaintiff will apply to the court for the relief demanded. If the plaintiff has appeared by attorney, the name of the attorney must be indorsed upon the summons. [*Amendment, approved March 26, 1880; Amendments 1880, 19 (Ban. ed. 57); took effect immediately.*]

10,845. Time for appearance of defendant.

Sec. 845. The time specified in the summons for the appearance of the defendant must be as follows:

1. If an order of arrest be indorsed upon the summons, forthwith.
2. In all other cases the summons must contain a direction that the defendant must appear and answer the complaint within five days, if the summons be served in the city and county, township, or city in which the action is brought; within ten days if served out of the township or city, but in the county in which the action is brought, and within twenty days if served elsewhere. [*Amendment, approved March 26, 1880; Amendments 1880, 19 (Ban. ed. 57); took effect immediately.*]

10,871. Judgment; when by default.

Sec. 871. If the defendant fail to appear, and to answer or demur within the time specified in the summons, then, upon proof of service of summons, the following proceedings must be had:

1. If the action is based upon a contract, and is for the recovery of money, or damages only, the court must render judgment in favor of plaintiff for the sum specified in the summons.
2. In all other actions the court must hear the evidence offered by the plaintiff, and must render judgment in his favor for such sum (not exceeding the amount stated in the summons), as appears by such evidence to be just. [*Amendment, approved April 16, 1880; Amendments 1880, 118 (Ban. ed. 377); took effect immediately.*]

10,895. Offer to compromise before trial.

Sec. 895. If the defendant, at any time before the trial, offer, in writing, to allow judgment to be taken against him for a specified sum, the plaintiff may immediately have judgment therefor, with the costs then accrued; but if he do not accept such offer before the trial, and fail to recover in the action a sum in excess of the offer, he can not recover costs, but costs must be adjudged against him, and, if he recover, be deducted from his recovery. The offer and failure to accept it can not be given in evidence nor affect the recovery, otherwise than as to costs. [*Amendment, approved March 2, 1878; Amendments 1877-8, 103; took effect sixtieth day after passage.*]

10,897. Abstract of judgment.

SEC. 897. The justice, on the demand of a party in whose favor judgment is rendered, must give him an abstract of the judgment in substantially the following form (filling blanks according to the facts): State of California, —, County (or City and County), —, plaintiff, vs. —, defendant. In Justice's Court, before —, Justice of the Peace, — Township (or City, or City and County), —, 18— (inserting date of abstract). Judgment entered for plaintiff (or defendant) for \$—, on the — day of —. I certify that the foregoing is a correct abstract of a judgment rendered in said action in my court, —, or (as the case may be) in the court of —, Justice of the Peace, as appears by his docket, now in my possession, as his successor in office. —, Justice of the Peace. [*Amendment, approved March 10, 1880; Amendments 1880, 19 (Ban. ed. 58); took effect immediately.*]

10,898. Abstract may be filed and docketed in superior court.

SEC. 898. The abstract may be filed in the office of the county clerk of the county in which the judgment was rendered, and the judgment docketed in the judgment docket of the superior court thereof. The time of the receipt of the abstract by the clerk must be noted by him thereon, and entered in the docket. [*Amendment, approved March 10, 1880; Amendments 1880, 20 (Ban. ed. 58); took effect immediately.*]

10,899. Effect of docketing.

SEC. 899. From the time of docketing in the county clerk's office, execution may be issued thereon by the county clerk to the sheriff of any county in the State, other than the county in which the judgment was rendered, in the same manner and with like effect as if issued on a judgment of the superior court. [*Amendment, approved March 10, 1880; Amendments 1880, 20 (Ban. ed. 58); took effect immediately.*]

10,900. Judgment not a lien unless abstract is recorded in recorder's office.

SEC. 900. A judgment rendered in a justice's court creates no lien upon any lands of the defendant, unless such an abstract is filed in the office of the recorder of the county in which the lands are situated. When so filed, and from the time of filing, the judgment becomes a lien upon all the real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterwards, and before the lien expires, acquire. The lien continues for two years, unless the judgment be previously satisfied. [*Amendment, approved April 16, 1880; Amendments 1880, 113 (Ban. ed. 378); took effect immediately.*]

10,905.

An Act relative to executions from courts of justices of the peace of the several townships of the County of Alameda.

Approved February 25, 1878; 1877-8, 106.

[This act, which required executions from justices' courts to be served by the sheriff or a constable of the township in which the court issuing it was held, was repealed by act of April 1, 1880, 19 (Ban. ed. 62); took effect from passage.]

10,912. Entries therein prima facie evidence of facts.

SEC. 912. The several particulars of the last section specified must be entered under the title of the action to which they relate, and (unless otherwise in this title provided) at the time when they occur. Such entries in a justice's docket, or a transcript thereof, certified by the justice, or his successor in office, are

prima facie evidence of the facts so stated. [*Amendment, approved March 10, 1880; Amendments 1880, 20 (Ban. ed. 58); took effect immediately.*]

10,918. *If two justices might be deemed successors, superior court shall designate one.*

Sec. 918. When two or more justices are equally entitled, under the last section, to be deemed the successors in office of the justice, a judge of the superior court must, by a certificate subscribed by him and filed in the office of the county clerk, designate which justice is the successor of a justice going out of office, or whose office has become vacant. [*Amendment, approved March 10, 1880; Amendments 1880, 20 (Ban. ed. 58); took effect immediately.*]

10,921. *Justices to receive all moneys collected and pay same to parties.*

Sec. 921. Justices of the peace must receive from the sheriff or constables of their county, all moneys collected on any process or order issued from their courts respectively, and must pay the same, and all moneys paid to them in their official capacity, over to the parties entitled or authorized to receive them, without delay. [*Amendment, approved March 10, 1880; Amendments 1880, 20 (Ban. ed. 59); took effect immediately.*]

10,926. *Deposit instead of undertaking.*

Sec. 926. In all civil cases arising in justices' courts, wherein an undertaking is required as prescribed in this Code, the plaintiff or defendant may deposit with said justice a sum of money in United States gold coin equal to the amount required by the said undertaking, which said sum of money shall be taken as security in place of said undertaking. [*New section, approved February 25, 1878; Amendments 1877-8, 103; took effect sixtieth day after passage.*]

APPEALS.

10,939. *Within what time appeal may be taken.*

Sec. 939. An appeal may be taken:

1. From a final judgment in an action or special proceeding commenced in the court in which the same is rendered within one year after the entry of judgment. But an exception to the decision or verdict, on the ground that it is not supported by the evidence, can not be reviewed on an appeal from the judgment, unless the appeal is taken within sixty days after the rendition of the judgment.

2. From a judgment rendered on an appeal from an inferior court within ninety days after the entry of such judgment.

3. From an order granting or refusing a new trial; from an order granting or dissolving an injunction; from an order refusing to grant or dissolve an injunction; from an order dissolving or refusing to dissolve an attachment; from an order granting or refusing to grant a change of the place of trial; from any special order made after final judgment; and from an interlocutory judgment in actions for partition of real property; and from an order confirming, changing, modifying, or setting aside the report in whole or in part of the referees in actions for partition of real property in the cases mentioned in the provisions in section seven hundred and sixty-three of this Code, within sixty (60) days after the order or interlocutory judgment is made and entered in the minutes of the court, or filed with the clerk. [*Amendment, approved April 12, 1880; Amendments 1880, 61 (Ban. ed. 197); took effect immediately.*]

10,943. *Appeal from judgment for delivery of documents.*

Sec. 943. If the judgment or order appealed from, direct the assignment or delivery of documents or personal property, the execution of the judgment or

order can not be stayed by appeal, unless the things required to be assigned or delivered be placed in the custody of such officer or receiver as the court may appoint, or unless an undertaking be entered into on the part of the appellant, with at least two sureties, and in such amount as the court, or a judge thereof, may direct, to the effect that the appellant will obey the order of the appellate court upon the appeal. [*Amendment, approved March 9, 1880; Amendments 1880, 6 (Ban. ed. 19); took effect immediately.*]

10,948. *Justification of sureties on undertaking on appeal.*

SEC. 948. The adverse party may except to the sufficiency of the sureties to any of the undertakings mentioned in sections nine hundred and forty-one, nine hundred and forty-two, nine hundred and forty-three, and nine hundred and forty-five, at any time within thirty days after the filing of such undertaking; and unless they or other sureties, within twenty days after the appellant has been served with notice of such exception, justify before a judge of the court below, or county clerk, upon five days' notice to the respondent of the time and place of justification, execution of the judgment order or decree appealed from is no longer stayed; and in all cases where an undertaking is required on appeal by the provisions of this title, a deposit in the court below of the amount of the judgment appealed from, and three hundred dollars in addition, shall be equivalent to filing the undertaking; and in all cases the undertaking or deposit may be waived by the written consent of the respondent. [*Amendment, approved March 9, 1880; Amendments 1880, 6 (Ban. ed. 20); took effect immediately.*]

10,959. *Provisions of chapter not applicable to appeals to superior courts.*

SEC. 959. The provisions of this chapter do not apply to appeals to superior courts. [*Amendment, approved March 9, 1880; Amendments 1880, 6 (Ban. ed. 20); took effect immediately.*]

[All of Chapters II and III of Title XII of Part II, and each and every section thereof, were amended and new Chapters II and III substituted in place thereof by act approved March 26, 1880; Amendments 1880, 14 (Ban. ed. 52); took effect immediately; repealed all acts in conflict therewith. The new Chapters II and III, are as follows:]

CHAPTER II.

APPEALS TO SUPREME COURT.

10,963. *In what cases appeal may be taken.*

SEC. 963. An appeal may be taken to the supreme court, from a superior court, in the following cases:

1. From a final judgment entered in an action or special proceeding commenced in a superior court, or brought into a superior court from another court.

2. From an order granting or refusing a new trial; or granting or dissolving an injunction; or refusing to grant or dissolve an injunction; or dissolving or refusing to dissolve an attachment; or changing or refusing to change the place of trial; for any special order made after final judgment; and from such interlocutory judgment in actions for partition as determines the rights and interests of the respective parties and directs partition to be made.

3. From a judgment or order granting, refusing, or revoking letters testamentary, or of administration, or of guardianship; or admitting or refusing to admit a will to probate; or against or in favor of the validity of a will, or revoking the probate thereof; or against or in favor of setting apart property, or

making an allowance for a widow or child; or against or in favor of directing the partition, sale, or conveyance of real property; or settling an account of an executor, or administrator, or guardian, or refusing, allowing, or directing the distribution or partition of an estate, or any part thereof, or the payment of a debt, claim, legacy, or distributive share; or confirming or refusing to confirm a report of an appraiser setting apart the homestead.

10,964. *Appeals; in what cases appealed from justices' courts.*

SEC. 964. The foregoing section does not apply in cases appealed from justices', police, or other inferior courts, except cases of forcible entry and detainer, and cases involving the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars.

10,965. *Appeals by executors and administrators.*

SEC. 965. When an executor, administrator, or guardian, who has given an official bond, appeals from a judgment or order of the superior court made in the proceedings had upon the estate of which he is executor, administrator, or guardian, his official bond shall stand in the place of an undertaking on appeal; and the sureties thereon shall be liable as on such undertaking.

10,966. *Acts of executors and administrators; where appointment vacated.*

SEC. 966. When the judgment or order appointing an executor, or administrator, or guardian, is reversed on appeal, for error, and not for want of jurisdiction of the court, all lawful acts in administration upon the estate performed by such executor, or administrator, or guardian, if he have qualified, are as valid as if such judgment or order had been affirmed.

CHAPTER III.

APPEALS TO SUPERIOR COURTS.

10,974. *Appeal from judgment of justice's or police courts.*

SEC. 974. Any party dissatisfied with a judgment rendered in a civil action in a police or justice's court may appeal therefrom to the superior court of the county, at any time within thirty days after the rendition of the judgment. The appeal is taken by filing a notice of appeal with the justice or judge, and serving a copy on the adverse party. The notice must state whether the appeal is taken from the whole or a part of the judgment, and if from a part, what part, and whether the appeal is taken on questions of law or fact, or both.

10,975. *Appeal on questions of law—Statement.*

SEC. 975. When a party appeals to the superior court on questions of law alone, he must, within ten days from the rendition of judgment, prepare a statement of the case and file the same with the justice or judge. The statement must contain the grounds upon which the party intends to rely on the appeal, and so much of the evidence as may be necessary to explain the grounds, and no more. Within ten days after he receives notice that the statement is filed, the adverse party, if dissatisfied with the same, may file amendments. The proposed statement and amendments must be settled by the justice or judge, and if no amendment be filed, the original statement stands as adopted. The statement thus adopted, or as settled by the justice or judge, with a copy of the docket of the justice or judge, and all motions filed with him by the parties

during the trial, and the notice of appeal, may be used on the hearing of the appeal before the superior court.

10,976. *Appeal on questions of fact, or law and fact.*

SEC. 976. When a party appeals to the superior court on questions of fact, or on questions of both law and fact, no statement need be made, but the action must be tried anew in the superior court.

10,977. *Transmission of papers to appellate court.*

SEC. 977. Upon receiving the notice of appeal, and on payment of the fees of the justice or judge, and filing an undertaking as required in the next section, and after settlement or adoption of statement, if any, the justice or judge must, within five days, transmit to the clerk of the superior court, if the appeal be on questions of law alone, a certified copy of his docket, the statement as admitted or as settled, the notice of appeal, and the undertaking filed; or, if the appeal be on questions of fact, or both law and fact, a certified copy of his docket, the pleadings, all notices, motions, and all other papers filed in the cause, the notice of appeal, and the undertaking filed; and the justice or judge may be compelled by the superior court, by an order entered upon motion, to transmit such papers, and may be fined for neglect or refusal to transmit the same. A certified copy of such order may be served on the justice or judge by the party or his attorney. In the superior court, either party may have the benefit of all legal objections made in the justice's or police court.

10,978. *Undertaking on appeal.*

SEC. 978. An appeal from a justice's or police court is not effectual for any purpose unless an undertaking be filed with two or more sureties in the sum of one hundred dollars for the payment of the costs on the appeal; or, if a stay of proceedings be claimed, in a sum equal to twice the amount of the judgment, including costs, when the judgment is for the payment of money; or twice the value of the property, including costs, when the judgment is for the recovery of specific personal property, and must be conditioned, when the action is for the recovery of money, that the appellant will pay the amount of the judgment appealed from, and all costs, if the appeal be withdrawn or dismissed, or the amount of any judgment and all costs that may be recovered against him in the action in the superior court. When the action is for the recovery of or to enforce or foreclose a lien on specific personal property, the undertaking must be conditioned that the appellant will pay the judgment and costs appealed from, and obey the order of the court made therein, if the appeal be withdrawn or dismissed, or any judgment and costs that may be recovered against him in said action in the superior court, and will obey any order made by the court therein. When the judgment appealed from directs the delivery of the possession of real property, the execution of the same can not be stayed unless a written undertaking be executed on the part of the appellant, with two or more sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon, and that if the appeal be dismissed or withdrawn, or the judgment affirmed, or judgment be recovered against him in the action in the superior court, he will pay the value of the use and occupation of the property from the time of the appeal until the delivery of possession thereof; or that he will pay any judgment and costs that may be recovered against him in said action in the superior court, not exceeding a sum to be fixed by the justice of the court from which the appeal is taken, and which sum must be specified in the undertaking. A deposit of

the amount of the judgment, including all costs appealed from, or of the value of the property, including all costs in actions for the recovery of specific personal property, with the justice or judge; is equivalent to the filing of the undertaking, and in such cases the justice or judge must transmit the money to the clerk of the superior court, to be by him paid out on the order of the court. The adverse party may except to the sufficiency of the sureties within five days after the filing of the undertaking, and unless they or other sureties justify before the justice or judge within five days thereafter, upon notice to the adverse party, to the amounts stated in their affidavits, the appeal must be regarded as if no such undertaking had been given.

10,979. Stay of proceedings on filing undertaking.

SEC. 979. If an execution be issued on the filing of the undertaking staying proceedings, the justice or judge must, by order, direct the officer to stay all proceedings on the same. Such officer must, upon payment of his fees for services rendered on the execution, thereupon relinquish all property levied upon and deliver the same to the judgment debtor, together with all moneys collected from sales or otherwise. If his fees be not paid, the officer may retain so much of the property or proceeds thereof as may be necessary to pay the same.

10,980. Powers of superior court on appeal.

SEC. 980. Upon an appeal heard upon a statement of the case, the superior court may review all orders affecting the judgment appealed from, and may set aside, or confirm, or modify any or all of the proceedings subsequent to and dependent upon such judgment, and may, if necessary or proper, order a new trial. When the action is tried anew, on appeal, the trial must be conducted in all respects as other trials in the superior court. The provisions of this Code as to changing the place of trial, and all the provisions as to trials in the superior court, are applicable to trials on appeal in the superior court. For a failure to prosecute an appeal, or unnecessary delay in bringing it to a hearing, the superior court, after notice, may order the appeal to be dismissed, with costs; and if it appear to such court that the appeal was made solely for delay, it may add to the costs such damages as may be just, not exceeding twenty-five per cent. of the judgment appealed from. Judgments rendered in the superior court on appeal shall have the same force and effect and may be enforced in the same manner as judgments in actions commenced in the superior court.

[The foregoing sections end Chapter III, which with Chapter II of Title XII of Part II, was entirely amended and the foregoing Chapters II and III adopted as substitutes therefor, by act approved March 26, 1880; Amendments, 1880, 14 (Ban. ed. 52); took effect immediately; repealed all acts and parts of acts in conflict therewith.]

[Chapters IV and V of Title XIII of Part II, and each and every section thereof, relating to appeals from probate courts and appeals to county courts, were repealed by act approved April 15, 1880; Amendments 1880, 64 (Ban. ed. 238); took effect immediately.]

An Act to provide for the taking of appeals from judgments or orders given or made in the courts existing on and before the first day of January, eighteen hundred and eighty.

Approved April 3, 1880; 1880, 24 (Ban. ed. 121).

Appeals from judgments existing before January, 1880.

SECTION 1. In any case where judgment had been rendered, given, or made, or an appealable order had been made or entered, before twelve o'clock noon of the first day of January, eighteen hundred and eighty, in or by any court

which was in existence on and before the first day of January, eighteen hundred and eighty, from which any party interested had at and immediately before the constitution went into effect a right of appeal to the supreme court, or the county court, the party so interested shall have the right to appeal from such judgment or order to the present supreme court, or to the superior court of the county, in the same manner and within the same time after the passage of this act as was before authorized and provided by law for appeal to the then existing supreme court or county court; and upon such appeal the appellate court shall have the same jurisdiction to hear and determine the matter or cause as the former court did have in like cases.

Sec 2. This act shall take effect and be in force from and after its passage.

INSPECTION OF WRITINGS.

11,000. *A party may demand inspection and copy of a book, paper, etc.*

Sec. 1000. Any court in which an action is pending, or a judge thereof may, upon notice, order either party to give to the other, within a specified time, an inspection and copy, or permission to take a copy, of entries of accounts in any book, or of any document or paper in his possession, or under his control, containing evidence relating to the merits of the action, or the defense therein. If compliance with the order be refused, the court may exclude the entries of accounts of the book, or the document, or paper from being given in evidence, or if wanted as evidence by the party applying, may direct the jury to presume them to be such as he alleges them to be; and the court may also punish the party refusing for a contempt. This section is not to be construed to prevent a party from compelling another to produce books, papers, or documents when he is examined as a witness. [*Amendment, approved April 15, 1880; Amendments 1880, 72 (Ban. ed. 262); took effect immediately.*]

MOTIONS AND ORDERS.

11,004. *Motions and orders, where made.*

Sec. 1004. Motions must be made in the county, or city and county, in which the action is pending. Orders made out of court may be made by the judge of the court in any part of the State. [*Amendment, approved March 10, 1880; Amendments 1880, 12 (Ban. ed. 25); took effect immediately.*]

11,005. *Notice of motion, at what time to be given.*

Sec. 1005. When a written notice of a motion is necessary, it must be given, if the court be held in the same county, or city and county, with both parties, five days before the time for the hearing; otherwise ten days. When the notice is served by mail, the number of days before the hearing must be increased one day for every twenty-five miles of distance between the place of deposit and the place of service; such increase, however, not to exceed in all thirty days; but in all cases the court or a judge thereof may prescribe a shorter time. [*Amendment, approved March 10, 1880; Amendments 1880, 13 (Ban. ed. 26); took effect immediately.*]

GENERAL PROVISIONS.

11,054. *Time within which an act is to be done may be extended.*

Sec. 1054. When an act to be done, as provided in this Code, relates to the pleadings in the action, or the undertakings to be filed, or the justification of sureties, or the preparation of statements, or of bills of exceptions, or of amendments thereto, or to the service of notices other than of appeal, the

time allowed by this Code may be extended, upon good cause shown by the court in which the action is pending or a judge thereof; but such extension shall not exceed thirty days without the consent of the adverse party. [*Amendment, approved March 9, 1880; Amendments 1880, 7 (Ban. ed. 80); took effect immediately.*]

11,055. *Action against sheriff for official acts.*

SEC. 1055. If an action be brought against a sheriff for an act done by virtue of his office, and he give written notice thereof to the sureties on any bond of indemnity received by him, the judgment recovered therein shall be conclusive evidence of his right to recover against such sureties; and the court may, on motion, upon notice of five days, order judgment to be entered up against them for the amount so recovered, including costs. [*Amendment, approved April 15, 1880; Amendments, 1880, 73 (Ban. ed. 263); took effect immediately.*]

11,056.

[Sec. 1056, relating to prosecuting actions in the Spanish language in certain counties, was repealed by act of April 16, 1880; Amendments 1880, 111 (Ban. ed. 347); took effect immediately.]

11,058. *People of State not required to give bonds, when State a party.*

SEC. 1058. In any civil action or proceeding wherein the State, or the people of the State, is a party plaintiff, or any State officer, in his official capacity or on behalf of the State, or any county, city and county, city, or town, is a party plaintiff or defendant, no bond, written undertaking, or security can be required of the State, or the people thereof, or any officer thereof, or of any county, city and county, city, or town; but on complying with the other provisions of this Code, the State, or the people thereof, or any State officer acting in his official capacity, have the same rights, remedies, and benefits as if the bond, undertaking, or security were given and approved as required by this Code. [*Amendment, approved April 15, 1880; Amendments 1880, 76 (Ban. ed. 272); took effect immediately.*]

WRITS OF REVIEW, MANDATE, AND PROHIBITION.

11,108. *Writs of review, mandate, and prohibition may issue and be heard at any time.*

SEC. 1108. Writs of review, mandate, and prohibition issued by the supreme court, or by a superior court, may, in the discretion of the court issuing the writ, be made returnable, and a hearing thereon be had at any time. [*Amendment, approved April 15, 1880; Amendments 1880, 73 (Ban. ed. 263); took effect immediately.*]

CONTESTING CERTAIN ELECTIONS.

11,116. *Statement of cause of contest in illegal voting.*

SEC. 1116. When the reception of illegal votes is alleged as a cause of contest, it is sufficient to state generally that in one or more specified voting precincts illegal votes were given to the person whose election is contested, which, if taken from him, will reduce the number of his legal votes below the number of legal votes given to some other person for the same office; but no testimony can be received of any illegal votes, unless the party contesting such election deliver to the opposite party, at least three days before such trial, a written list of the number of illegal votes, and by whom given, which he intends to prove on such trial; and no testimony can be received of any illegal votes except such

as are specified in such list. [*Amendment, approved April 15, 1880; Amendments 1880, 74 (Ban. ed. 270); took effect immediately.*]

11,118. Superior judge to hold special session for trial of contest.

SEC. 1118. Upon the statement being filed, the county clerk must inform the superior court of the county thereof, which shall thereupon order a special session of such court to be held at the court-room, on some day to be named by it, not less than ten nor more than twenty days from the date of such order, to hear and determine such contested election. [*Amendment, approved April 15, 1880; Amendments 1880, 75 (Ban. ed. 270); took effect immediately.*]

11,119. Citation to issue.

SEC. 1119. The clerk shall thereupon issue a citation for the person, whose right to the office is contested, to appear at the time and place specified in the order, which citation must be delivered to the sheriff, and served either upon the party in person, or, if he cannot be found, by leaving a copy thereof at the house where he last resided, at least five days before the time so specified. [*Amendment, approved April 15, 1880; Amendments 1880, 75 (Ban. ed. 270); took effect immediately.*]

11,120. Witnesses, attendance of, how enforced.

SEC. 1120. The clerk must issue subpoenas for witnesses at the request of either party, which must be served as other subpoenas; and the superior court shall have full power to issue attachments to compel the attendance of witnesses who have been subpoenaed to attend. [*Amendment, approved April 15, 1880; Amendments 1880, 75 (Ban. ed. 271); took effect immediately.*]

11,124.

[Sec. 1124, relating to fees of officers and witnesses, was repealed by act of April 15, 1880; Amendments 1880, 76 (Ban. ed. 271); took effect immediately.]

11,125. Costs.

SEC. 1125. If the proceedings are dismissed for insufficiency or want of prosecution, or the election is by the court confirmed, judgment must be rendered against the party contesting such election, for costs, in favor of the party whose election was contested; but if the election is annulled and set aside, judgment for costs must be rendered against the party whose election was contested in favor of the party contesting the same. Primarily, each party is liable for the costs created by himself, to the officers and witnesses entitled thereto, which may be collected in the same manner as similar costs are collected in other cases. [*Amendment, approved April 15, 1880; Amendments 1880, 75 (Ban. ed. 271); took effect immediately.*]

11,126. Appeal.

SEC. 1126. Either party, aggrieved by the judgment of the court, may appeal therefrom to the supreme court, as in other cases of appeal thereto from the superior court. [*Amendment, approved April 15, 1880; Amendments 1880, 75 (Ban. ed. 271); took effect immediately.*]

11,127. When election void and office vacant.

SEC. 1127. Whenever an election is annulled, or set aside by the judgment of the superior court, and no appeal has been taken within ten days thereafter, the commission, if any has issued, is void, and the office vacant. [*Amendment, approved April 15, 1880; Amendments 1880, 75 (Ban. ed. 271); took effect immediately.*]

SUMMARY PROCEEDINGS.

11,144. *Notice of application for discharge from prison.*

SEC. 1144. Such person must cause a notice in writing to be given to the plaintiff, his agent, or attorney, that at a certain time and place he will apply to a judge of the superior court of the county in which such person may be confined, for the purpose of obtaining a discharge from his imprisonment. [*Amendment, approved April 16, 1880; Amendments 1880, 114 (Ban. ed. 380); took effect immediately.*]

11,161. *Unlawful detainer defined.*

SEC. 1161. A tenant of real property, for a term less than life, is guilty of unlawful detainer:

One—When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him, without the permission of his landlord, or the successor in estate of his landlord, if any there be; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

Two—Where he continues in possession, in person or by subtenant, without permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him, and if there be a subtenant in actual occupation of the premises, also upon such subtenant. Such notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than sixty days after the expiration of his term without any demand of possession or notice to quit by the landlord, or the successor in estate of his landlord, if any there be, he shall be deemed to be holding by permission of the landlord, or the successor in estate of his landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during said year, and such holding over for the period aforesaid shall be taken and construed as a consent on the part of a tenant to hold for another year.

Three—When he continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there be a subtenant in actual occupation of the premises, also upon such subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture. A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to an under-tenant, in case of his unlawful detention of the premises underlet to him.

Four—Any tenant or subtenant assigning or subletting or committing waste upon the demised premises, contrary to the covenants of his lease, thereby terminate the lease, and the landlord, or his successor in estate, shall, upon

service of three days' notice to quit, upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provisions of this act. [*Amendment, approved April 1, 1878; Amendments 1877-8, 104; took effect from passage.*]

[On the same day that the foregoing amendment of section eleven hundred and sixty-one was approved another amendment of the same section was approved, as follows:]

Unlawful detainer defined.

SEC. 1161. A tenant of real property, for a term less than life, is guilty of an unlawful detainer:

First—When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him, without permission of his landlord; but in case of tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

Second—Where he continues in possession, in person or by subtenants, without permission of his landlord, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him; and if there be a subtenant in actual occupation of the premises, also upon subtenant. Such notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than sixty days after the expiration of his term, without any demand of possession or notice to quit by the landlord, he shall be deemed to be holding by permission of the landlord, and shall be entitled to hold, under the terms of the lease, for another full year, and shall not be deemed guilty of an unlawful detainer during said year, and such holding over for the period aforesaid shall be taken and construed as a consent, on the part of a tenant, to hold for another year.

Third—When he continues in possession, in person or by subtenants, after a neglect or a failure to perform other conditions or covenants of the lease or agreement under which the property is held, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him; and if there be a subtenant in actual occupation of the premises, also upon such subtenant. Within three days after the service of the notice, the tenant of any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in the continuance, may perform the conditions or covenants of the lease, or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the covenants and conditions of lease, violated by the lessee, can not afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant demanding the performance of the violated covenant or conditions of the lease. A tenant may take proceedings similar to those prescribed in this chapter to obtain possession of the premises let to an under-tenant, in case of his unlawful detention of the premises underlet to him. [*Amendment, approved April 1, 1878; Amendments 1877-8, 106; took effect from passage.*]

11,163. Jurisdiction of superior courts and justices' courts.

SEC. 1163. The superior court of the county in which the property, or some part of it, is situated, shall have jurisdiction of proceedings under this chapter; provided, that justices' courts, within their respective townships or cities, or

cities and counties, shall have concurrent jurisdiction with the superior courts in cases of forcible entry and detainer, when the rental value does not exceed twenty-five dollars per month, and when the whole amount of damages claimed does not exceed two hundred dollars. [*Amendment, approved March 9, 1880; Amendments 1880, 8 (Ban. ed. 21); took effect immediately.*]

11,166. Complaint—When summons must be issued.

SEC. 1166. The plaintiff, in his complaint, which shall be in writing, must set forth the facts on which he seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force, or violence which may have accompanied the alleged forcible entry, or forcible or unlawful detainer, and claim damages therefor. In case the unlawful detainer charged be after default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint, a summons must be issued thereon as in other cases, returnable at a day designated therein, which shall not be less than three days nor more than twelve days from its date, except in cases when the publication of the summons is necessary, in which case the court or a judge, or justice thereof, may order that the summons be made returnable at such time as may be deemed proper, and the summons shall specify the return day so fixed. [*Amendment, approved March 9, 1880; Amendments 1880, 8 (Ban. ed. 21); took effect immediately.*]

11,167. Summons, form and service of.

SEC. 1167. The summons must state the parties to the proceeding, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day, and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him. The summons must be directed to the defendant, and be served at least two days before the return day designated therein, and must be served and returned in the same manner as summons in civil actions is served and returned. Upon the return of any summons issued under this chapter where the same has not, for any reason, been served, or not served in time, the plaintiff may have a new summons issued, the same as if no previous summons had been issued. [*Amendment, approved March 9, 1880; Amendments 1880, 8 (Ban. ed. 21); took effect immediately.*]

11,168. Arrest.

SEC. 1168. If the complaint presented establishes, to the satisfaction of the judge or justice, fraud, force, or violence, in the entry or detainer, and that the possession held is unlawful, he may make an order for the arrest of the defendant. [*Amendment, approved March 9, 1880; Amendments 1880, 9 (Ban. ed. 22); took effect immediately.*]

11,171. Trial by jury.

SEC. 1171. Whenever an issue of fact is presented by the pleadings, it must be tried by a jury, unless such jury be waived as in other cases. The jury shall be formed in the same manner as other trial juries in the court in which the action is pending. [*Amendment, approved March 9, 1880; Amendments 1880, 9 (Ban. ed. 22); took effect immediately.*]

11,176. Effect of appeal upon judgment.

SEC. 1176. An appeal taken by the defendant shall not stay proceedings upon the judgment unless the judge or justice before whom the same was rendered so directs. [*Amendment, approved March 9, 1880; Amendments 1880, 9 (Ban. ed. 22); took effect immediately.*]

11,179. Forfeiture, relief against.

SEC. 1179. The court may relieve a tenant against a forfeiture of a lease, and restore him to his former estate, in case of hardship, where application for such relief is made within thirty days after the forfeiture is declared by the judgment of the court, as provided in section one thousand one hundred and seventy-four. The application may be made by a tenant or subtenant, or a mortgagee of the term, or any person interested in the continuance of the term. It must be made upon petition, setting forth the facts upon which the relief is sought, and be verified by the applicant. Notice of the application, with a copy of the petition, must be served on the plaintiff in the judgment, who may appear and contest the application. In no case shall the application be granted except on condition that full payment of rent due, or full performance of conditions or covenants stipulated, so far as the same is practicable, be made. [*Amendment, approved March 9, 1880; Amendments 1880, 9 (Ban. ed. 22); took effect immediately.*]

ENFORCEMENT OF LIENS.

11,183. Mechanic lien, upon what.

SEC. 1183. Mechanics, material men, artisans, architects, and laborers of every class performing labor upon or furnishing material to be used in the construction, alteration, or repair of any mining claim, building, wharf, bridge, ditch, flume, aqueduct, tunnel, fence, machinery, railroad, wagon road, or other structure, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished. This lien shall not be affected by the fact that no money is due or to become due, on any contract made by the owner with any other party. [*Amendment, approved April 15, 1880; Amendments 1880, 62 (Ban. ed. 234); took effect immediately.*]

An Act giving a lien to loggers and laborers, employed in logging camps, upon the logs cut and hauled by the persons who employ them.

Approved March 30, 1878; 1877-8, 747.

Labor with logs, lien upon.

SECTION 1. A person who labors at cutting, hauling, rafting, or driving logs or lumber, or who performs any labor in or about a logging camp necessary for the getting out or transportation of logs or lumber, shall have a lien thereon for the amount due for his personal services, which shall take precedence of all other claims, to continue for thirty days after the logs or lumber arrive at the place of destination, for sale or manufacture, except as hereinafter provided. [*Amendment, approved April 12, 1880; 1880, 38 (Ban. ed. 191); took effect from passage.*]

Lien to cease, how and when.

SEC. 2. The lien hereby created shall cease and determine unless the claimant thereof shall, within twenty days from the time of such labor shall have been completed, file and record in the office of the county recorder of the county where such labor was performed a verified claim, containing a statement:

First—Of his demand, after deducting all just credits and offsets.

Second—The time within which such labor was done.

Third—The name of the person or persons for which the same was done.

Fourth—The place where the logs or timber upon which such lien is claimed are believed to be situated, and the marks upon the same.

Fifth—The reputed owner thereof; and,

Sixth—The reputed owner of the land from which the same were cut and hauled.

Suits to be commenced in proper courts.

SEC. 3. All liens hereby provided for shall cease and determine unless suit to foreclose the same shall be commenced in the proper court within twenty-five days from the time the same are filed. [*Amendment, approved April 12, 1880; Amendments 1880, 39 (Ban. ed. 191); took effect from passage.*]

Plaintiff to have lumber attached.

SEC. 4. The plaintiff in any such suit, at the time of issuing the summons, or at any time afterward, may have the logs or timber upon which such lien subsists attached, as further security for the payment of any judgment he may recover, unless defendant give him good and sufficient security to pay such judgment, in which event such logs shall be forthwith discharged by the sheriff from such attachment, and from the lien hereby created.

Clerk to issue writ.

SEC. 5. The clerk of the court must issue the writ of attachment upon receiving an affidavit by or on behalf of the plaintiff, showing:

First—That defendant is indebted to the plaintiff upon a demand for labor, for which his claim has been duly filed in accordance with section two of this act.

Second—That the sum for which the attachment is asked is an actual bona fide existing debt, due and owing from the defendant to the plaintiff, and that the attachment is not sought, and the action is not prosecuted, to hinder, delay, or defraud any creditor or creditors of the defendant.

Sheriff to attach logs.

SEC. 6. The writ must be directed to the sheriff of the county, and must require him to attach and safely keep the logs and timber specified in such lien, or so much thereof as may be sufficient to satisfy plaintiff's demand, unless the defendant give good and sufficient security, as provided in this act, in which case to take such security and discharge any attachment he may have made, and to deliver up such logs to the defendant, who shall receive the same free from the lien upon which such suit is brought.

Sections made applicable.

SEC. 7. Sections five hundred and thirty-nine, eleven hundred and eighty-nine, eleven hundred and ninety-one, eleven hundred and ninety-seven, eleven hundred and ninety-eight, and eleven hundred and ninety-nine, of the Code of Civil Procedure, are hereby made applicable to this act.

Attachment, how made.

SEC. 8. Such attachment shall be made by taking such logs into possession, and the sheriff shall make an inventory and return of his proceedings as directed in Chapter Four, Title Seven, of the Code of Civil Procedure.

Where lien shall extend.

SEC. 9. The lien provided for by this act shall in no case extend beyond the limits of the county in which the logs or timber in controversy were cut.

SEC. 10. This act shall take effect and be in force from and after its passage.

VOLUNTARY DISSOLUTION OF CORPORATIONS.

11,227. Corporation, how dissolved.

Sec. 1227. A corporation may be dissolved by the superior court of the county where its principal place of business is situated, upon its voluntary application for that purpose. [*Amendment, approved April 16, 1880; Amendments 1880, 109 (Ban. ed. 308); took effect immediately.*]

11,230. Filing application and publication of notice.

Sec. 1230. If the court is satisfied that the application is in conformity with this title, a judge thereof must order it to be filed with the clerk, and that the clerk give not less than thirty nor more than fifty days' notice of the application, by publication in some newspaper published in the county; and if there are none such, then by advertisements posted up in three of the principal public places in the county. [*Amendment, approved April 16, 1880; Amendments 1880, 109 (Ban. ed. 309); took effect immediately.*]

11,232. Hearing of application.

Sec. 1232. After the time of publication has expired, the court may, upon five days' notice to the persons who have filed objections, or without further notice, if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, must declare the corporation dissolved. [*Amendment, approved February 25, 1878; Amendments 1877-8, 108; took effect from passage.*]

11,233. Judgment roll and appeals.

Sec. 1233. The application, notices, and proof of publication, objections (if there be any), and declaration of dissolution, constitute the judgment roll; and from the judgment an appeal may be taken, as from other judgments of the superior courts. [*Amendment, approved April 16, 1880; Amendments 1880, 109 (Ban. ed. 309); took effect immediately.*]

EMINENT DOMAIN.

11,243. Jurisdiction in superior court.

Sec. 1243. All proceedings under this title must be brought in the superior court of the county in which the property is situated. They must be commenced by filing a complaint and issuing a summons thereon. [*Amendment, approved April 26, 1880; Amendments 1880, 118 (Ban. ed. 515); took effect immediately.*]

11,244. The complaint and its contents.

Sec. 1244. The complaint must contain:

1. The name of the corporation, association, commission or person in charge of the public use for which the property is sought, who must be styled plaintiff.
2. The names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants.
3. A statement of the right of the plaintiff.
4. If a right of way be sought, the complaint must show the location, general route, and termini, and must be accompanied with a map thereof, so far as the same is involved in the action or proceeding.
5. A description of each piece of land sought to be taken, and whether the same includes the whole or only a part of an entire parcel or tract. All parcels lying in the county, and required for the same public use, may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of parties.

When application for the condemnation of a right of way for the purposes of sewerage is made on behalf of a settlement, or of an incorporated village or town, the board of supervisors of the county may be named as plaintiff. [*Amendment, approved April 26, 1880; Amendments 1880, 118 (Ban. ed. 515); took effect immediately.*]

11,254. Putting plaintiff in possession.

Sec. 1254. At any time after trial and judgment entered or pending an appeal from the judgment to the supreme court, whenever the plaintiff shall have paid into court, for the defendant, the full amount of the judgment, and such further sum as may be required by the court as a fund to pay any further damages and costs that may be recovered in said proceeding, as well as all damages that may be sustained by the defendant, if, for any cause, the property shall not be finally taken for public use, the superior court in which the proceeding was tried may, upon notice of not less than ten days, authorize the plaintiff, if already in possession, to continue therein, and, if not, then to take possession of and use the property during the pendency of and until the final conclusion of the litigation, and may, if necessary, stay all actions and proceedings against the plaintiff on account thereof. The defendant, who is entitled to the money paid into court for him upon any judgment, shall be entitled to demand and receive the same at any time thereafter upon obtaining an order therefor from the court. It shall be the duty of the court, or a judge thereof, upon application being made by such defendant, to order and direct that the money so paid into court for him be delivered to him upon his filing a satisfaction of the judgment, or upon his filing a receipt therefor, and an abandonment of all defenses to the action or proceeding, except as to the amount of damages that he may be entitled to in the event that a new trial shall be granted. A payment to a defendant, as aforesaid, shall be held to be an abandonment by such defendant of all defenses interposed by him, excepting his claim for greater compensation. In ascertaining the amount to be paid into court, the court shall take care that the same be sufficient and adequate. The payment of the money into court, as hereinbefore provided for, shall not discharge the plaintiff from liability to keep the said fund full and without diminution; but such money shall be and remain, as to all accidents, defalcations, or other contingencies (as between the parties to the proceedings), at the risk of the plaintiff, and shall so remain until the amount of the compensation or damages is finally settled by judicial determination, and until the court awards the money, or such part thereof as shall be determined upon, to the defendant, and until he is authorized or required by rule of court to take it. If, for any reason, the money shall at any time be lost, or otherwise abstracted, or withdrawn, through no fault of the defendant, the court shall require the plaintiff to make and keep the sum good at all times until the litigation is finally brought to an end, and until paid over or made payable to the defendant by order of court, as above provided, and until such time or times the county clerk shall be deemed to be the custodian of the money, and shall be liable to the plaintiff upon his official bond for the same, or any part thereof, in case it be for any reason lost or otherwise abstracted or withdrawn. The court may order the money to be deposited in the State treasury, and in such case it shall be the duty of the State treasurer to receive all such moneys, duly receipt for and safely keep the same in a special fund, to be entered on his books as a condemnation fund for such purpose, and for such duty he shall be liable to the plaintiff upon his official bond. The State treasurer shall pay out

such money so deposited in such manner and at such times as the court or a judge thereof may, by order or decree, direct. In all cases where a new trial has been granted upon the application of the defendant, and he has failed upon such trial to obtain greater compensation than was allowed him upon the first trial, the costs of such new trial shall be taxed against him. [*Amendment, approved April 26, 1880; Amendments 1880, 119 (Ban. ed. 515); took effect immediately.*]

11,257. *New trials and appeals.*

Sec. 1257. The provisions of Part Two of this Code, relative to new trials and appeals, except in so far as they are inconsistent with the provisions of this title, apply to the proceedings mentioned in this title; provided, that upon the payment of the sum of money assessed, and upon the execution of the bond to build the fences and cattle-guards, as provided in section twelve hundred and fifty-one, the plaintiff shall be entitled to enter into, improve, and hold possession of the property sought to be condemned (if not already in possession) as provided in section twelve hundred and fifty-four, and devote the same to the public use in question; and no motion for new trial or appeal shall, after such payment and filing of such bond, as aforesaid, in any manner retard the contemplated improvement. Any money which shall have been deposited, as provided in section twelve hundred and fifty-four, may be applied to the payment of the money assessed, and the remainder, if any there be, shall be returned to the plaintiff. [*Amendment, approved April 1, 1878; Amendments 1877-8, 109; took effect from passage.*]

ESCHEATED ESTATES.

11,269. *Manner of commencing proceedings relative to escheated estates.*

Sec. 1269. When the attorney-general is informed that any real estate has escheated to this State, he must file an information in behalf of the State in the superior court of the county in which such estate, or any part thereof, is situated, setting forth a description of the estate, the name of the person last seised, the name of the occupant and person claiming such estate, if known, and the facts and circumstances in consequence of which the estate is claimed to have been escheated, with an allegation that, by reason thereof, the State of California has right by law to such estate. Upon such information a summons must issue to such person, requiring him to appear and answer the information within the time allowed by law in civil actions; and the court must make an order setting forth briefly the contents of the information, and requiring all persons interested in the estate to appear and show cause, if any they have, within forty days from the date of the order, why the same should not vest in this State; which order must be published for at least one month from the date thereof, in a newspaper published in the county, if one be published therein, and in case no newspaper is published in the county, in some other newspaper in this State. [*Amendment, approved April 16, 1880; Amendments 1880, 110 (Ban. ed. 309); took effect immediately.*]

11,272. *Proceedings by persons claiming escheated estates.*

Sec. 1272. Within twenty years after judgment in any proceeding had under this title, a person not a party or privy to such proceeding may file a petition in the superior court of the County of Sacramento, showing his claim or right to the property, or the proceeds thereof. A copy of such petition must be served on the attorney-general at least twenty days before the hearing of the petition, who must answer the same; and the court thereupon must try the

issue as issues are tried in civil actions, and if it be determined that such person is entitled to the property, or the proceeds thereof, it must order the property, if it has not been sold, to be delivered to him, or if it has been sold and the proceeds paid into the State treasury, then it must order the controller to draw his warrant on the treasury for the payment of the same, but without interest or cost to the State, a copy of which order, under the seal of the court, shall be a sufficient voucher for drawing such warrant. All persons who fail to appear and file their petitions within the time limited are forever barred, saving, however, to infants, married women, and persons of unsound minds, or persons beyond the limits of the United States, the right to appear and file their petitions at any time within the time limited, or five years after their respective disabilities cease. [*Amendment, approved April 16, 1880; Amendments 1880, 110 (Ban. ed. 310); took effect immediately.*]

CHANGE OF NAMES.

11,275. *Jurisdiction.*

Sec. 1275. Applications for change of names must be heard and determined by the superior courts. [*Amendment, approved April 23, 1880; Amendments 1880, 117 (Ban. ed. 404); took effect immediately.*]

11,276. *Application for change of name, how made.*

Sec. 1276. All applications for change of names must be made to the superior court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under twenty-one years of age, if a male, and under the age of eighteen years, if a female, by one of the parents, if living; or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if the father of such person be not living, name, as far as known to the petitioner, the near relatives of such person, and their place of residence. Any religious, benevolent, literary, or scientific corporation, or any corporation bearing or having for its name, or using or being known by the name of any benevolent or charitable order or society, may by petition, apply to the superior court of the county in which the property of said corporation is situated for a change of its corporate name. Such petition must be signed by the trustees of the corporation, or by a majority of them, and must specify the date of the formation of the corporation, its present name, the name proposed, and the reason for such change of name. Upon filing such petition on behalf of such corporation, the same proceedings shall be had as upon applications for changes of names of natural persons, and no banking corporation hereafter organized shall adopt or use the name of any friendly society. [*Amendment, approved April 23, 1880; Amendments 1880, 117 (Ban. ed. 404); took effect immediately.*]

11,278. *Hearing of application and remonstrance.*

Sec. 1278. Such application must be heard at such time as the court may appoint, and objections may be filed by any person who can, in such objections, show to the court good reason against such change of name. On the hearing, the court may examine on oath, any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

Amendment, approved April 23, 1880; Amendments 1880, 117 (Ban. ed. 405); took effect immediately.

11,279. *Annual returns to be made to secretary of State.*

SEC. 1279. Each county clerk shall annually, in the month of January, make a return to the office of the secretary of State of all changes of names made in the superior court of his county under this title. Such return shall show the date of the decree of the court, original name, name decreed, and residence. Such returns shall be published in a tabular form with the statutes first published thereafter. [*Amendment, approved April 23, 1880; Amendments 1880, 118 (Ban. ed. 405); took effect immediately.*]

ARBITRATIONS.

11,283. *Submission may be entered as order of court.*

SEC. 1283. It may be stipulated in the submission that it be entered as an order of the superior court, for which purpose it must be filed with the clerk of the county where the parties, or one of them, reside. The clerk must thereupon enter in his register of actions a note of the submission with the names of the parties, the names of the arbitrators, the date of the submission when filed, and the time limited by the submission, if any, within which the award must be made. When so entered the submission can not be revoked without the consent of both parties. The arbitrators may be compelled by the court to make an award, and the award may be enforced by the court in the same manner as a judgment. If the submission is not made an order of the court, it may be revoked at any time before the award is made. [*Amendment, approved April 15, 1880; Amendments 1880, 74 (Ban. ed. 269); took effect immediately.*]

PROBATE PROCEEDINGS.

11,295. *When jurisdiction decided by first application.*

SEC. 1295. When the estate of the decedent is in more than one county, he having died out of the State, and not having been a resident thereof at the time of his death, or being such non-resident, and dying within the State, and not leaving estate in the county where he died, the superior court of that county in which application is first made, for letters testamentary or of administration, has exclusive jurisdiction of the settlement of the estate. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 273); took effect immediately.*]

11,298. *Custodian of will to deliver same, to whom.*

SEC. 1298. Every custodian of a will, within thirty days after receipt of information that the maker thereof is dead, must deliver the same to the superior court having jurisdiction of the estate, or to the executor named therein. A failure to comply with the provisions of this section makes the person failing responsible for all damages sustained by any one injured thereby. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 274); took effect immediately.*]

11,303. *Notice of petition for probate, how given.*

SEC. 1303. When the petition is filed, and the will produced, the superior court, or a judge thereof, must fix a day for hearing the petition, not less than ten nor more than thirty days from the production of the will. Notice of the hearing shall be given by the clerk of the court by publishing the same in a newspaper of the county; if there be none, then by three written or printed

notices posted at three of the most public places in the county. If the notice is published in a weekly newspaper, it must appear therein on at least three different days of publication, and if in a newspaper published oftener than once a week, it shall be so published that there must be at least ten days from the first to the last day of publication, both the first and the last day being included. If the notice is by posting, it must be given at least ten days before the hearing. [*Amendment, approved April 16, 1880; Amendments 1880, 77 (Ban. ed. 274); took effect immediately.*]

11,305. *Petition may be presented to court, and what judge may do.*

SEC. 1305. A judge of the superior court may at any time receive petitions for the probate of wills, and make and issue all necessary orders and writs, to enforce the production of wills, and the attendance of witnesses, and may appoint special sessions of his court for hearing petitions, trial of issues, and admitting wills to probate. [*Amendment, approved April 16, 1880; Amendments, 1880, 78 (Ban. ed. 274); took effect immediately.*]

11,313. *How jury obtained and trial had.*

SEC. 1313. When a jury is demanded, the superior court must impanel a jury to try the case, in the manner provided for impaneling trial juries in courts of record, and the trial must be conducted in accordance with the provisions of part two, title eight, chapter four, of this Code. A trial by the court must be conducted as provided in part two, title eight, chapter five, of this Code. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 274); took effect immediately.*]

11,317. *If proved, certificate to be attached.*

SEC. 1317. If the court is satisfied, upon the proof taken, or from the facts found by the jury, that the will was duly executed, and that the testator at the time of its execution was of sound and disposing mind, and not acting under duress, menace, fraud, or undue influence, a certificate of the proof and the facts found, signed by the judge and attested by the seal of the court, must be attached to the will. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 275); took effect immediately.*]

11,318. *Will and proof to be filed and recorded.*

SEC. 1318. The will, and a certificate of the proof thereof, must be filed and recorded by the clerk, and the same, when so filed and recorded, shall constitute part of the record in the cause or proceeding. All testimony shall be filed by the clerk. [*Amendment, approved April 15, 1880; Amendments 1880, 61 (Ban. ed. 214); took effect from passage.*]

11,322. *Wills proved in other States to be recorded, when and where.*

SEC. 1322. All wills duly proved and allowed in any other of the United States, or in any foreign country or State, may be allowed and recorded in the superior court of any county in which the testator shall have left any estate. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 275); took effect immediately.*]

11,338. *Proof of lost or destroyed will.*

SEC. 1338. Whenever any will is lost or destroyed, the superior court must take proof of the execution and validity thereof and establish the same; notice to all persons interested being first given, as prescribed in regard to proofs of wills in other cases. All the testimony must be reduced to writing, and signed by the witnesses. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 275); took effect immediately.*]

11,340. *Provisions of lost will to be recorded, certified, and letters thereon granted.*

SEC. 1340. When a lost will is established, the provisions thereof must be distinctly stated and certified by the judge, under his hand and the seal of the court, and the certificate must be filed and recorded as other wills are filed and recorded, and letters testamentary or of administration, with the will annexed, must be issued thereon in the same manner as upon wills produced and duly proved. The testimony must be reduced to writing, signed, certified, and filed as in other cases, and shall have the same effect as evidence as provided in section one thousand three hundred and sixteen. [*Amendment, approved April 16, 1880; Amendments 1880, 78 (Ban. ed. 275); took effect immediately.*]

11,345. *Additional requirements in probate of nuncupative wills.*

SEC. 1345. The superior court must not receive or entertain a petition for the probate of a nuncupative will until the lapse of ten days from the death of the testator, nor must such petition at any time be acted on until the testamentary words are, or their substance is, reduced to writing and filed with the petition, nor until the surviving husband or wife (if any), and all other persons resident in the State or county interested in the estate, are notified as hereinbefore provided. [*Amendment, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 275); took effect immediately.*]

11,350. *Who incompetent as executors—Letters with will annexed.*

SEC. 1350. No person is competent to serve as executor who, at the time the will is admitted to probate, is:

1. Under the age of majority.
2. Convicted of infamous crime.

3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity.

If the sole executor or all the executors are incompetent, or renounce, or fail to apply for letters, or to appear and qualify, letters of administration, with the will annexed, must be issued as designated and provided for the grant of letters in cases of intestacy. [*Amendment, approved April 1, 1878; Amendments 1877-8, 111; took effect sixtieth day after passage.*]

11,360. *Form of letters testamentary.*

SEC. 1360. Letters testamentary must be substantially in the following form: State of California, County, or City and County of ——. The last will of A. B., deceased, a copy of which is hereto annexed, having been proved and recorded in the superior court of the County, or City and County of —, C. D., who is named therein as such, is hereby appointed executor. Witness, G. H., Clerk of the Superior Court of the County, or City and County of —, with the seal of the Court affixed the — day of —, A. D., 18—. (Seal). By order of the Court. G. H., Clerk. [*Amendment, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 275); took effect immediately.*]

11,361. *Form of letters of administration with the will annexed.*

SEC. 1361. Letters of administration, with the will annexed, must be substantially in the following form: State of California, County [or City and County] of ——. The last will of A. B., deceased, a copy of which is hereto annexed, having been proved and recorded in the superior court of the County, or City and County of —, and there being no executor named in the will (or as the case may be), C. D. is hereby appointed administrator with the will annexed. Witness, G. H., Clerk of the Superior Court of the County, or City and County of —, with the seal of the Court affixed, the — day of —, A.

D. 18—. (Seal.) By order of the Court. G. H., Clerk. [*Amendment, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 275); took effect immediately.*]

11,362. Form of letters of administration.

SEC. 1362. Letters of administration must be signed by the clerk, under the seal of the Court, and substantially in the following form: State of California, County, or City and County of ——. C. D. is hereby appointed administrator of the estate of A. B., deceased. (Seal.) Witness, G. H., Clerk of the Superior Court of the County, or City and County of ——, with the seal thereof affixed, the — day of —, A. D. 18—. By order of the Court. G. H., Clerk. [*Amendment, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 275); took effect immediately.*]

11,365. Order of persons entitled to administer.

SEC. 1365. Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, the relatives of the deceased being entitled to administer only when they are entitled to succeed to his personal estate, or some portion thereof; and they are, respectively, entitled thereto in the following order:

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father or mother.
4. The brothers.
5. The sisters.
6. The grandchildren.
7. The next of kin entitled to share in the distribution of the estate.
8. The public administrator.
9. The creditors.
10. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate. [*Amendment, approved April 1, 1878; Amendments 1877-8, 111; took effect sixtieth day after passage.*]

11,369. Who are incompetent to act as administrators.

SEC. 1369. No person is competent or entitled to serve as administrator or administratrix who is:

1. Under the age of majority.
2. Not a bona fide resident of the State.
3. Convicted of an infamous crime.
4. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity. [*Amendment, approved April 1, 1878; Amendments 1877-8, 112; took effect sixtieth day after passage.*]

11,372. Letters of administration, when granted.

SEC. 1372. Letters of administration may be granted by the court at any time appointed for the hearing of the application, or at any time to which the hearing is continued or postponed. [*Amendment, approved April 16, 1880; Amendments 1880, 79 (Ban. ed. 276); took effect immediately.*]

11,373. Notice of application.

SEC. 1373. When a petition praying for letters of administration is filed, the

clerk must give notice thereof by causing notices to be posted in at least three public places in the county, one of which must be at the place where the court is held, containing the name of the decedent, the name of the applicant, and the time at which the application will be heard. Such notice must be given at least ten days before the hearing. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 276); took effect immediately.*]

11,379. Letters of administration may be granted to others than those entitled.

SEC. 1379. Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled, filed in the court. When the person entitled is a non-resident of the State, affidavits, taken ex parte before any officer authorized by the laws of this State to take acknowledgments and administer oaths out of this State, may be received as *prima facie* evidence of the identity of the party, if free from suspicion, and the fact is established to the satisfaction of the court. [*Amendment, approved April 16, 1880; Amendments 1880, 113 (Ban. ed. 377); took effect immediately.*]

11,383. Revocation of letters of administration.

SEC. 1383. When letters of administration have been granted to any other person than the surviving husband or wife, child, father, mother, brother, or sister of the intestate, any one of them who is competent, or any competent person at the written request of any one of them, may obtain the revocation of the letters, and be entitled to the administration, by presenting to the court a petition praying the revocation, and that letters of administration may be issued to him. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 276); took effect immediately.*]

11,388. Bond of administrator, form and requirements of.

SEC. 1388. Every person to whom letters testamentary or of administration are directed to issue, must, before receiving them, execute a bond to the State of California, with two or more sufficient sureties, to be approved by the superior court, or a judge thereof. In form, the bond must be joint and several, and the penalty must not be less than twice the value of the personal property, and twice the probable value of the annual rents, profits, and issues of real property belonging to the estate, which values must be ascertained by the superior court, or a judge thereof, by examining on oath the party applying, and any other persons. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 277); took effect immediately.*]

11,389. Additional bonds, when required.

SEC. 1389. The superior court, or a judge thereof, must require an additional bond whenever the sale of any real estate belonging to an estate is ordered; but no such additional bond must be required when it satisfactorily appears to the court that the penalty of the bond given before receiving letters, or of any bond given in place thereof, is equal to twice the value of the personal property remaining in or that will come into the possession of the executor or administrator, including the annual rents, profits, and issues of real estate, and twice the probable amount to be realized on the sale of the real estate ordered to be sold. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 277); took effect immediately.*]

11,391. Separate bonds when more than one administrator.

SEC. 1391. When two or more persons are appointed executors or administrators, the superior court, or a judge thereof, must require and take a separate

bond from each of them. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 277); took effect immediately.*]

11,393. Bonds and justification of sureties on.

Sec. 1393. In all cases where bonds or undertakings are required to be given, under this title, the sureties must justify thereon in the same manner and in like amounts as required by section ten hundred and fifty-seven of this Code, and the certificate thereof must be attached to and filed and recorded with the bond or undertaking. All such bonds and undertakings must be approved by a judge of the superior court before being filed or recorded. [*Amendment, approved April 16, 1880; Amendments 1880, 80 (Ban. ed. 277); took effect immediately.*]

11,394. Citation and requirements of judge on deficient bonds—Additional security.

Sec. 1394. Before the judge approves any bond required under this title, and after its approval, he may, of his own motion, or upon the motion of any person interested in the estate, supported by affidavit, that the sureties, or some one or more of them, are not worth as much as they have justified to, order a citation to issue requiring such sureties to appear before him at a designated time and place, to be examined touching their property and its value; and the judge must, at the same time, cause a notice to be issued to the executor or administrator requiring his appearance on the return of the citation; and on its return he may examine the sureties and such witnesses as may be produced, touching the property of the sureties and its value; and if, upon such examination, he is satisfied that the bond is insufficient, he must require sufficient additional security. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 278); took effect immediately.*]

11,397. Petition showing failing sureties and asking for further bonds.

Sec. 1397. Any person interested in an estate, may, by verified petition, represent to the superior court, or a judge thereof, that the sureties of an executor or administrator thereof have become, or are becoming insolvent, or that they have removed, or are about to remove from the State, or that from any other cause the bond is insufficient, and ask that further security be required. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 278); took effect immediately.*]

11,398. Citation to executor, etc., to show cause against such application.

Sec. 1398. If the court, or a judge thereof, is satisfied that the matter requires investigation, a citation must be issued to the executor or administrator requiring him to appear, at a time and place to be therein specified, to show cause why he should not give further security. The citation must be served personally on the executor or administrator, at least five days before the return day. If he has absconded, or can not be found, it may be served by leaving a copy of it at his place of residence, or by such publication as the court, or a judge thereof, may order. [*Amendment, approved April 16, 1880; Amendments 1880, 81 (Ban. ed. 278); took effect immediately.*]

11,402. Further security ordered without application of party interested.

Sec. 1402. When it comes to his knowledge that the bond of any executor or administrator is from any cause insufficient, the judge, without any application, must cause him to be cited to appear and show cause why he should not give further security, and must proceed thereon as upon the application of any per-

son interested. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 278); took effect immediately.*]

11,403. *Release of sureties.*

SEC. 1403. When a surety of any executor or administrator desires to be released from responsibility on account of future acts, he may make application to the superior court, or a judge thereof, for relief. The court or judge must cause a citation to the executor or administrator to be issued, and served personally, requiring him to appear at a time and place, to be therein specified, and to give other security. If he has absconded, left, or removed from the State, or if he can not be found, after due diligence and inquiry, service may be made as provided in section one thousand three hundred and ninety-eight. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 278); took effect immediately.*]

11,406. *Applications to be determined any time.*

SEC. 1406. The applications authorized by the nine preceding sections of this chapter may be heard and determined at any time. All orders made therein must be entered upon the minutes of the court. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 279); took effect immediately.*]

11,411. *Special administrators, when appointed.*

SEC. 1411. When there is delay in granting letters testamentary or of administration from any cause, or when such letters are granted irregularly, or no sufficient bond is filed as required, or when no application is made for such letters, or when an executor or administrator dies, or is suspended, or removed, the superior court, or a judge thereof, must appoint a special administrator to collect and take charge of the estate of the decedent in whatever county or counties the same may be found, and to exercise such other powers as may be necessary for the preservation of the estate; or he may direct the public administrator of his county to take charge of the estate. [*Amendment, approved April 16, 1880, Amendments 1880, 82 (Ban. ed. 279); took effect immediately.*]

11,412. *Special letters may issue at any time.*

SEC. 1412. The appointment may be made at any time, and without notice, and must be made by entry upon the minutes of the court, specifying the powers to be exercised by the administrator. Upon such order being entered, and after the person appointed has given bond, the clerk must issue letters of administration to such person in conformity with the order. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 279); took effect immediately.*]

11,413. *Preference given to persons entitled to letters.*

SEC. 1413. In making the appointment of a special administrator, the court or judge must give preference to the person entitled to letters testamentary or of administration, but no appeal must be allowed from the appointment. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 279); took effect immediately.*]

11,414. *Special administrator to give bond and take oath.*

SEC. 1414. Before any letters issue to any special administrator, he must give bond in such sum as the court or judge may direct, with sureties to the satisfaction of the court or judge conditioned for the faithful performance of his duties; and he must take the usual oath, and have the same indorsed on his letters. [*Amendment, approved April 16, 1880; Amendments 1880, 82 (Ban. ed. 279); took effect immediately.*]

11,415. Duties of special administrator.

SEC. 1415. The special administrator must collect and preserve for the executor or administrator, all the goods, chattels, debts, and effects of the decedent, all incomes, rents, issues, and profits, claims, and demands of the estate; must take the charge and management of, enter upon, and preserve from damage, waste, and injury, the real estate, and for any such and all necessary purposes may commence and maintain or defend suits and other legal proceedings as an administrator; he may sell such perishable property as the court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but in no case is he liable to an action by any creditor on a claim against the decedent. [*Amendment, approved April 16, 1880; Amendments 1880, 83 (Ban. ed. 280); took effect immediately.*]

11,426. Who to act when all acting are incompetent.

SEC. 1426. If all such executors or administrators die or become incapable, or the power and authority of all of them is revoked, the court must issue letters of administration, with the will annexed or otherwise, to the widow or next of kin, or others, in the same order and manner as is directed in relation to original letters of administration. The administrators so appointed must give bond in the like penalty, with like sureties and conditions, as hereinbefore required of administrators, and shall have the like power and authority. [*Amendment, approved April 16, 1880; Amendments 1880, 83 (Ban. ed. 280); took effect immediately.*]

11,427. Resignation of executors or administrators.

SEC. 1427. Any executor or administrator may, at any time, by writing, filed in the superior court, resign his appointment, having first settled his accounts and delivered up all the estate to the person whom the court shall appoint to receive the same. If, however, by reason of any delays in such settlement and delivery up of the estate, or for any other cause, the circumstances of the estate or the rights of those interested therein require it, the court may, at any time before settlement of accounts and delivering up of the estate is completed, revoke the letters of such executor or administrator, and appoint in his stead an administrator, either special or general, in the same manner as is directed in relation to original letters of administration. The liability of the outgoing executor or administrator, or of the sureties on his bond, shall not be in any manner discharged, released, or affected by such appointment or resignation. [*Amendment, approved April 16, 1880; Amendments 1880, 83 (Ban. ed. 280); took effect immediately.*]

11,430. When judge not to act.

SEC. 1430. No will shall be admitted to probate, or letters testamentary or of administration granted, before any judge who is interested, as next of kin to the decedent, or as a legatee or devisee under the will, or when he is named as executor or trustee in the will, or is a witness thereto, or is in any other manner interested or disqualified from acting. [*Amendments, approved April 16, 1880; Amendments 1880, 83 (Ban. ed. 280); took effect immediately.*]

11,431. Judge being disqualified, proceedings to be transferred, and where.

SEC. 1431. When a petition is filed in the superior court praying for admission to probate of a will, or for granting letters testamentary or of administration, or when proceedings are pending in the superior court for the settlement of an estate, and there is no judge of said court qualified to act, an order must be made transferring the proceeding to the superior court of an adjoining county;

and the clerk of the court ordering the transfer must transmit to the clerk of the court to which the proceeding is ordered to be transferred, a certified copy of the order, and all the papers on file in his office in the proceeding; and thereafter the court to which the proceeding is transferred shall exercise the same authority and jurisdiction over the estate, and all matters relating to the administration thereof, as if it had original jurisdiction of the estate. [*Amendment, approved April 16, 1880; Amendments 1880, 84 (Ban. ed. 281); took effect immediately.*]

11,432. *Transfer not to change right to administer.*

SEC. 1432. The transfer of a proceeding from one court to another, as provided for in the preceding section, shall not affect the right of any person to letters testamentary or of administration on the estate transferred, but the same persons are entitled to letters testamentary or of administration on the estate, in the order hereinafter provided. If, before the administration is closed of any estate so transferred as herein provided, another person is elected or appointed, and qualified as judge of the court wherein such proceeding was originally commenced, who is not disqualified to act in the settlement of the estate, and the causes for which the proceeding was transferred no longer exist, any person interested in the estate may have the proceeding returned to the court from which it was originally transferred, by filing a petition setting forth these facts, and moving the court therefor. [*Amendment, approved April 16, 1880; Amendments 1880, 84 (Ban. ed. 281); took effect immediately.*]

11,433. *When proceeding to be returned to original court.*

SEC. 1433. On hearing the motion, if the facts required by the preceding section to be set out in the petition are satisfactorily shown, and it further appears to the court that the convenience of parties interested would be promoted by such change, the judge must make an order transferring the proceeding back to the court where it was originally commenced; and the clerk of the court ordering the transfer must transmit to the clerk of the court in which the proceeding was originally commenced, a certified copy of the order, and all the original papers on file in his office in the proceeding; and the court where the proceeding was originally commenced shall thereafter have jurisdiction and power to make all necessary orders and decrees to close up the administration of the estate. [*Amendment, approved April 16, 1880; Amendments 1880, 84 (Ban. ed. 281); took effect immediately.*]

11,436. *Suspension of powers of executor.*

SEC. 1436. Whenever a judge of a superior court has reason to believe, from his own knowledge, or from credible information, that any executor or administrator has wasted, embezzled or mismanaged, or is about to waste or embezzle, the property of the estate committed to his charge, or has committed, or is about to commit, a fraud upon the estate, or is incompetent to act, or has permanently removed from the State, or has wrongfully neglected the estate, or has long neglected to perform any act as such executor or administrator, he must, by an order entered upon the minutes of the court, suspend the powers of such executor or administrator until the matter is investigated. [*Amendment, approved April 16, 1880; Amendments 1880, 84 (Ban. ed. 282); took effect immediately.*]

11,443. *Inventory to be returned, including the homestead.*

SEC. 1443. Every executor or administrator must make and return to the court, within three months after his appointment, a true inventory and appraise-

ment of all the estate of the decedent, including the homestead, if any, which has come to his possession or knowledge. [*Amendment, approved April 16, 1880; Amendments 1880, 85 (Ban. ed. 282); took effect immediately.*]

11,444. Appraisement and pay of appraisers.

SEC. 1444. To make the appraisement, the court, or a judge thereof, must appoint three disinterested persons (any two of whom may act), who are entitled to receive a reasonable compensation for their services, not to exceed five dollars per day, to be allowed by the court or judge. The appraisers must, with the inventory, file a verified account of their services and disbursements. If any part of the estate is in any other county than that in which letters issued, appraisers thereof may be appointed, either by the court or judge having jurisdiction of the estate, or by the court or judge of such other county, on request of the court or judge having jurisdiction. [*Amendment, approved April 16, 1880; Amendments 1880, 85 (Ban. ed. 282); took effect immediately.*]

11,452. Executor or administrator to possess real and personal estate.

SEC. 1452. The executor or administrator is entitled to the possession of all the real and personal estate of the decedent, and to receive the rents and forfeits of the real estate until the estate is settled, or until delivered over by order of the court to the heirs or devisees; and must keep in good tenantable repair all houses, buildings, and fixtures thereon which are under his control. The heirs or devisees may themselves, or jointly with the executor or administrator, maintain an action for the possession of the real estate, or for the purpose of quieting title to the same, against any one except the executor or administrator; but this section shall not be so construed as requiring them so to do. [*Amendment, approved April 16, 1880; Amendments 1880, 85 (Ban. ed. 282); took effect immediately.*]

11,453. Executor or administrator when to deliver real estate to heirs or devisees.

SEC. 1453. Unless it satisfactorily appear to the court that the rents, issues, and profits of the real estate for a longer period are necessary to be received by the executor or administrator, wherewith to pay the debts of the decedent, or that it will probably be necessary to sell the real estate for the payment of such debts, the court, at the end of the time limited for the presentation of claims against the estate, must direct the executor or administrator to deliver possession of all the real estate to the heirs at law or devisees. [*Amendment, approved April 16, 1880; Amendments 1880, 85 (Ban. ed. 283); took effect immediately.*]

11,459. Citation to person suspected to have embezzled estate, etc.

SEC. 1459. If any executor, administrator, or other person interested in the estate of a decedent, complains to the superior court, or a judge thereof, on oath, that any person is suspected to have concealed, embezzled, smuggled, conveyed away, or disposed of any moneys, goods, or chattels of the decedent, or has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings, which contain evidences of or tend to disclose the right, title, interest, or claim of the decedent to any real or personal estate, or any claim or demand, or any lost will, the said court or judge may cite such person to appear before such court, and may examine him on oath upon the matter of such complaint. If such person is not in the county where the decedent dies, or where letters have been granted, he may be cited and examined either before the superior court of the county where he is found or before the superior court of the county where the decedent dies, or where letters have been granted.

But if, in the latter case, he appears and is found innocent, his necessary expenses must be allowed him out of the estate. [*Amendment, approved April 16, 1880; Amendments 1880, 86 (Ban. ed. 283); took effect immediately.*]

11,460. *Penalty for refusal to obey citation and for embezzlement.*

SEC. 1460. If the person so cited refuses to appear and submit to an examination, or to answer such interrogatories as may be put to him, touching the matters of the complaint, the court may, by warrant for that purpose, commit him to the county jail, there to remain in close custody until he submits to the order of the court, or is discharged according to law. If, upon such examination, it appears that he has concealed, embezzled, smuggled, conveyed away, or disposed of any moneys, goods, or chattels of the decedent, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts, or other writings containing evidences of or tending to disclose the right, title, interest, or claim of the decedent to any real or personal estate, claim, or demand, or any lost will of the decedent, the court may make an order requiring such person to disclose his knowledge thereof to the executor or administrator, and may commit him to the county jail, there to remain until the order is complied with, or he is discharged according to law; and all such interrogatories and answers must be in writing, signed by the party examined, and filed in the court. The order for such disclosure made upon such examination shall be prima facie evidence of the right of the executor or administrator to such property in any action brought for the recovery thereof; and any judgment recovered therein must be for double the value of the property as assessed by the court or jury, or for return of the property and damages in addition thereto, equal to the value of such property. In addition to the examination of the party, witnesses may be produced and examined on either side. [*Amendment, approved April 16, 1880; Amendments 1880, 86 (Ban. ed. 283); took effect immediately.*]

11,461. *Persons intrusted with estate of decedent may be cited to account.*

SEC. 1461. The superior court, or a judge thereof, upon the complaint, on oath, of any executor or administrator, may cite any person who has been intrusted with any part of the estate of the decedent to appear before such court, and require him to render a full account, on oath, of any moneys, goods, chattels, bonds, accounts, or other property or papers belonging to the estate, which have come to his possession in trust for the executor or administrator, and of his proceedings thereon; and if the person so cited refuses to appear and render such account, the court may proceed against him as provided in the preceding section. [*Amendment, approved April 16, 1880; Amendments 1880, 86 (Ban. ed. 284); took effect immediately.*]

11,464. *Widow and minor children may remain in decedent's house, etc.*

SEC. 1464. When a person dies leaving a widow or minor children, the widow or children, until letters are granted and the inventory is returned, are entitled to remain in possession of the homestead, of all the wearing apparel of the family, and of all the household furniture of the decedent, and are also entitled to a reasonable provision for their support, to be allowed by the superior court, or a judge thereof. [*Amendment, approved April 16, 1880; Amendments 1880, 87 (Ban. ed. 284); took effect immediately.*]

11,465. *All property exempt from execution to be set apart for use of family.*

SEC. 1465. Upon the return of the inventory, or at any subsequent time during the administration, the court may, on its own motion, or on petition therefor, set apart for the use of the surviving husband or wife, or, in case of his

or her death, to the minor children of the decedent, all the property exempt from execution, including the homestead, selected, designated, and recorded; provided, such homestead was selected from the common property, or from the separate property, of the persons selecting or joining in the selection of the same. If none has been selected, designated, and recorded, or, in case the homestead was selected by the survivor out of the separate property of the decedent, the decedent not having joined therein, the court must select, designate, and set apart, and cause to be recorded, a homestead for the use of the surviving husband or wife and the minor children; or if there be no surviving husband or wife, then for the use of the minor children, in the manner provided in article two of this chapter, out of the common property, or if there be no common property, then out of the real estate belonging to the decedent. [*Amendment, approved April 16, 1880; Amendments 1880, 87 (Ban. ed. 284); took effect immediately.*]

11,466. *May make extra allowance.*

SEC. 1466. If the amount set apart be insufficient for the support of the widow and children, or either, the court or a judge thereof must make such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances, during the progress of the settlement of the estate, which, in case of an insolvent estate, must not be longer than one year after granting letters testamentary or of administration. [*Amendment, approved April 16, 1880; Amendments 1880, 87; (Ban. ed. 285); took effect immediately.*]

11,468. *Property set apart how apportioned between survivor and children.*

SEC. 1468. When property is set apart for the use of the family by the superior court, such property shall be for the benefit of the several parties, as provided in section fourteen hundred and sixty-five of this Code. [*Amendment, approved April 16, 1880; Amendments 1880, 87 (Ban. ed. 285); took effect immediately.*]

11,469. *Administration when estate does not exceed fifteen hundred dollars.*

SEC. 1469. If, upon the return of the inventory of the estate of a deceased person, it shall appear therefrom that the value of the whole estate does not exceed the sum of fifteen hundred dollars, and if there be a widow or minor children of the deceased, the court or a judge thereof shall, by order, require all persons interested to appear on a day fixed, to show cause why the whole of said estate should not be assigned for the use and support of the family of the deceased. Notice thereof shall be given and proceedings had in the same manner as provided in sections one thousand six hundred and thirty-three, one thousand six hundred and thirty-five, and one thousand six hundred and thirty-eight of this Code. If, upon the hearing, the court finds that the value of the estate does not exceed the sum of fifteen hundred dollars, it shall, by a decree for that purpose, assign for the use and support of the widow and minor children, if there be a widow and minor children, and if no widow, then for the children, if there be any, and if no children, then for the widow, the whole of the estate, after the payment of the expenses of the last illness of the deceased, funeral charges, and expenses of administration, and there must be no further proceedings in the administration, unless further estate be discovered. [*Amendment, approved April 16, 1880; Amendments 1880, 88 (Ban. ed. 285); took effect immediately.*]

11,470. *When all property, except the homestead, to go to children.*

SEC. 1470. If the widow has a maintenance derived from her own property equal to the portion set apart to her by the preceding sections of this article, the whole property so set apart, other than the homestead, must go to the minor children. [*Amendment, approved April 16, 1880; Amendments 1880, 88 (Ban. ed. 286); took effect immediately.*]

11,474. *Right of survivor to homestead.*

SEC. 1474. If the homestead selected by the husband and wife, or either of them, during their coverture, and recorded while both were living, was selected from the community property, or from the separate property of the person selecting or joining in the selection of the same, it vests, on the death of the husband or wife, absolutely in the survivor. If the homestead was selected from the separate property of either the husband or the wife, without his or her consent, it vests, on the death of the person from whose property it was selected, in his or her heirs, subject to the power of the superior court to assign it for a limited period to the family of the decedent. In either case it is not subject to the payment of any debt or liability contracted by or existing against the husband and wife, or either of them, previous to or at the time of the death of such husband or wife, except as provided in the Civil Code. [*Amendment, approved April 16, 1880; Amendments 1880, 88 (Ban. ed. 286); took effect immediately.*]

11,475. *Selected and recorded homestead set off to person entitled.*

SEC. 1475. If the homestead selected and recorded prior to the death of the decedent be returned in the inventory appraised at not exceeding five thousand dollars in value, or was previously appraised as provided in the Civil Code, and such appraised value did not exceed that sum, the superior court must, by order, set it off to the persons in whom title is vested by the preceding section. If there be subsisting liens or incumbrances on the homestead, the claims secured thereby must be presented and allowed as other claims against the estate. If the funds of the estate be adequate to pay all claims against the estate, the claims so secured must be paid out of such funds. If the funds of the estate be not sufficient for that purpose, the claims so secured shall be paid proportionately with other claims allowed, and the liens or incumbrances on the homestead shall only be enforced against the homestead for any deficiency remaining after such payment. [*Amendment, approved April 16, 1880; Amendments 1880, 88 (Ban. ed. 286); took effect immediately.*]

11,485. *Costs, to whom chargeable.*

SEC. 1485. The costs of all proceedings in the superior court provided for in this chapter, must be paid by the estate as expenses of administration. Persons succeeding by purchase or otherwise to the interests, rights, and title of successors to homesteads, or to the right to have homesteads set apart to them, as in this chapter provided, have all the rights and benefits conferred by law on the persons whose interests and rights they acquire. [*Amendment, approved April 16, 1880; Amendments 1880, 89 (Ban. ed. 286); took effect immediately.*]

11,493. *Time within which claims must be presented.*

SEC. 1493. All claims arising upon contracts, whether the same be due, not due, or contingent, must be presented within the time limited in the notice, and any claim not so presented is barred forever; provided, however, that when it is made to appear by the affidavit of the claimant, to the satisfaction of the court, or a judge thereof, that the claimant had no notice as provided in

this chapter, by reason of being out of the State, it may be presented at any time before a decree of distribution is entered. [*Amendment, approved April 16, 1880; Amendments 1880, 89 (Ban. ed. 287); took effect immediately.*]

11,494. *Claims to be sworn to, and when allowed to bear same interest as judgments.*

SEC. 1494. Every claim which is due, when presented to the executor or administrator, must be supported by the affidavit of the claimant, or some one in his behalf, that the amount is justly due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant. If the claim be not due when presented, or be contingent, the particulars of such claim must be stated. When the affidavit is made by a person other than the claimant, he must set forth in the affidavit the reason why it is not made by the claimant. The oath may be taken before any officer authorized to administer oaths. The executor or administrator may also require satisfactory vouchers or proofs to be produced in support of the claim. If the estate be insolvent, no greater rate of interest shall be allowed upon any claim after the first publication of notice to creditors than is allowed on judgments obtained in the superior court. [*Amendment, approved April 16, 1880; Amendments 1880, 89 (Ban. ed. 287); took effect immediately.*]

11,495. *Superior judge may present claim, and action thereon.*

SEC. 1495. Any judge of a superior court may present a claim against the estate of a decedent for allowance to the executor or administrator thereof, and if the executor or administrator allows the claim, he must in writing designate some other judge of the superior court of the same or an adjoining county, who, upon the presentation of such claim to him, is vested with power to allow or reject it, and the judge presenting such claim, in case of its rejection by the executor or administrator, or by such judge as shall have acted upon it, has the same right to sue in a proper court for its recovery as other persons have when their claims against an estate are rejected. [*Amendment, approved April 16, 1880; Amendments 1880, 89 (Ban. ed. 287); took effect immediately.*]

11,496. *Allowance and rejection of claims.*

SEC. 1496. When a claim, accompanied by the affidavit required in this chapter, is presented to the executor or administrator, he must indorse thereon his allowance or rejection, with the day and date thereof. If he allow the claim, it must be presented to a judge of the superior court for his approval, who must in the same manner indorse upon it his allowance or rejection. If the executor or administrator, or the judge, refuse or neglect to indorse such allowance or rejection for ten days after the claim has been presented to him, such refusal or neglect may, at the option of the claimant, be deemed equivalent to a rejection on the tenth day; and if the presentation be made by a notary, the certificate of such notary, under seal, shall be prima facie evidence of such presentation and the date thereof. If the claim be presented to the executor or administrator before the expiration of the time limited for the presentation of claims, the same is presented in time, though acted upon by the executor or administrator, and by the judge, after the expiration of such time. If the claim be payable in a particular kind of money or currency, it shall, if allowed, be payable only in such money or currency. [*Amendment, approved April 16, 1880; Amendments 1880, 90 (Ban. ed. 287); took effect immediately.*]

11,497. *Approved claims or copies to be filed—Claims secured by liens may be described—Lost claims.*

SEC. 1497. Every claim allowed by the executor or administrator, and ap-

proved by a judge of the superior court, or a copy thereof, as hereinafter provided, must, within thirty days thereafter, be filed in the court, and be ranked among the acknowledged debts of the estate, to be paid in due course of administration. If the claim be founded on a bond, bill, note, or any other instrument, a copy of such instrument must accompany the claim, and the original instrument must be exhibited, if demanded, unless it be lost or destroyed, in which case the claimant must accompany his claim by his affidavit, containing a copy or particular description of such instrument, and stating its loss or destruction. If the claim, or any part thereof, be secured by a mortgage or other lien which has been recorded in the office of the recorder of the county in which the land affected by it lies, it shall be sufficient to describe the mortgage or lien, and refer to the date, volume, and page of its record. If, in any case, the claimant has left any original voucher in the hands of the executor or administrator, or suffered the same to be filed in court, he may withdraw the same when a copy thereof has been already, or is then, attached to his claim. A brief description of every claim filed must be entered by the clerk in the register, showing the name of the claimant, the amount and character of the claim, rate of interest, and date of allowance. [*Amendment, approved April 16, 1880; Amendments 1880, 90 (Ban. ed. 288); took effect immediately.*]

11,498. *Rejected claims to be sued for within three months.*

SEC. 1498. When a claim is rejected either by the executor or administrator, or a judge of the superior court, the holder must bring suit in the proper court against the executor or administrator within three months after the date of its rejection, if it be then due, or within two months after it becomes due, otherwise the claim shall be forever barred. [*Amendment, approved April 16, 1880; Amendments 1880, 91 (Ban. ed. 288); took effect immediately.*]

11,499. *Claims barred by statute of limitations; when and whom judge may examine.*

SEC. 1499. No claim must be allowed by the executor or administrator, or by a judge of the superior court, which is barred by the statute of limitations. When a claim is presented to a judge for his allowance, he may, in his discretion, examine the claimant and others on oath, and hear any legal evidence touching the validity of the claim. [*Amendment, approved April 16, 1880; Amendments 1880, 91 (Ban. ed. 289); took effect immediately.*]

11,503. *Allowance of claim in part.*

SEC. 1503. Whenever any claim is presented to an executor or administrator, or to a judge, and he is willing to allow the same in part, he must state in his indorsement the amount he is willing to allow. If the creditor refuse to accept the amount allowed in satisfaction of his claim, he shall recover no costs in any action therefor brought against the executor or administrator, unless he recover a greater amount than that offered to be allowed. [*Amendment, approved April 16, 1880; Amendments 1880, 91 (Ban. ed. 289); took effect immediately.*]

11,504. *Effect of judgment against executor.*

SEC. 1504. A judgment rendered against an executor or administrator, upon any claim for money against the estate of his testator or intestate, only establishes the claim in the same manner as if it had been allowed by the executor or administrator and a judge; and the judgment must be that the executor or administrator pay, in due course of administration, the amount ascertained to be due. A certified transcript of the original docket of the judgment must be

filed among the papers of the estate in court. No execution must issue upon such judgment, nor shall it create any lien upon the property of the estate, or give to the judgment creditor any priority of payment. [*Amendment, approved April 16, 1880; Amendments 1880, 91 (Ban. ed. 289); took effect immediately.*]

11,507. May refer doubtful claims.

SEC. 1507. If the executor or administrator doubts the correctness of any claim presented to him, he may enter into an agreement, in writing, with the claimant, to refer the matter in controversy to some disinterested person, to be approved by the superior court, or a judge thereof. Upon filing the agreement and approval of such court or judge, in the office of the clerk of the court for the county in which the letters testamentary or of administration were granted, the clerk must enter a minute of the order referring the matter in controversy to the person so selected, or, if the parties consent, a reference may be had in the court; and the report of the referee, if confirmed, establishes or rejects the claim the same as if it had been allowed, or rejected by the executor or administrator and judge. [*Amendment, approved April 16, 1880; Amendments 1880, 91 (Ban. ed. 289); took effect immediately.*]

11,510. Claims of executor, etc., against estate.

SEC. 1510. If the executor or administrator is a creditor of the decedent, his claim duly authenticated by affidavit must be presented for allowance or rejection to a judge of the superior court, and its allowance by the judge is sufficient evidence of its correctness, and must be paid as other claims in due course of administration. If, however, the judge reject the claim, action thereon may be had against the estate by the claimant, and summons must be served upon the judge, who may appoint an attorney, at the expense of the estate, to defend the action. If the claimant recover no judgment, he must pay all costs, including defendant's reasonable attorney's fees, to be fixed by the court. [*Amendment, approved April 16, 1880; Amendments 1880, 92 (Ban. ed. 290); took effect immediately.*]

11,512. Executor to return statement of claims.

SEC. 1512. At the same time at which he is required to return his inventory, the executor or administrator must also return a statement of all claims against the estate which have been presented to him, if so required by the court, or a judge thereof, and from time to time thereafter he must present a statement of claims subsequently presented to him, if so required by the court, or a judge thereof. In all such statements he must designate the names of the creditors, the nature of each claim, when it became due, or will become due, and whether it was allowed or rejected by him. [*Amendment, approved April 16, 1880; Amendments 1880, 92 (Ban. ed. 290); took effect immediately.*]

11,517. No sales valid except by order of court.

SEC. 1517. No sale of any property of an estate of a decedent is valid unless made under order of the superior court, except as otherwise provided in this chapter. All sales must be under oath reported to and confirmed by the court before the title to the property sold passes. [*Amendment, approved April 16, 1880; Amendments 1880, 92 (Ban. ed. 290); took effect immediately.*]

11,519. But one petition, order, and sale must be had when it is possible to do so.

SEC. 1519. When it appears to the court that the estate is insolvent, or that it will require a sale of all the property of the estate, of every character, to pay the family allowance, expenses of administration, and debts, there need be but one petition filed, but one order of sale made, and but one sale had, except in

the case of perishable property, which may be sold as provided in section fifteen hundred and twenty-two. The court, when a petition for the sale of any property for any of the purposes herein named is presented, must inquire fully into the probable amount required to make all such payments, and if there be no more estate than sufficient to pay the same, may require but one proceeding for the sale of the entire estate. In such case the petition must set forth substantially the facts required by section fifteen hundred and thirty-seven. [*Amendment, approved April 16, 1880; Amendments 1880, 92 (Ban. ed. 290); took effect immediately.*]

11,523. Order to sell personal property.

SEC. 1523. If claims against the estate have been allowed, and a sale of property is necessary for their payment, or for the expenses of administration, or for the payment of legacies, the executor or administrator may apply for an order to sell so much of the personal property as may be necessary therefor. Upon filing his petition, notice of at least five days must be given of the hearing of the application, either by posting notices or by advertising. He may also make a similar application from time to time, so long as any personal property remains in his hands, and sale thereof is necessary. If it appear for the best interests of the estate, he may, at any time after filing the inventory in like manner, and after giving like notice, apply for and obtain an order to sell the whole of the personal property belonging to the estate, whether necessary to pay debts or not. [*Amendment, approved April 16, 1880; Amendments 1880, 93 (Ban. ed. 291); took effect immediately.*]

11,526. Sale of personal property.

SEC. 1526. The sale of personal property must be made at public auction for such money or currency as the court may direct, and after public notice given for at least ten days by notices posted in three public places in the county, or by publication in a newspaper, or both, containing the time and place of sale, and a brief description of the property to be sold, unless for good reason shown the court, or a judge thereof, orders a private sale, or a shorter notice. Public sales of such property must be made at the court-house door, or at the residence of the decedent, or at some other public place; but no sale shall be made of any personal property which is not present at the time of sale, unless the court otherwise order. [*Amendment, approved April 16, 1880; Amendments 1880, 93 (Ban. ed. 291); took effect immediately.*]

11,529. Mines may be sold, how.

SEC. 1529. When it appears from the inventory of the estate of any decedent that his estate consists in whole or in part of mines, or interests in mines, such mines or interests may be sold under the order of the court having jurisdiction of the estate, as hereinafter provided. [*Amendment, approved April 16, 1880; Amendments 1880, 93 (Ban. ed. 291); took effect immediately.*]

11,530. Petition for sale, who may file and what to contain.

SEC. 1530. The executor or administrator, or any heir at law, or creditor of the estate, or any partner or member of any mining company, in which interests or shares are held or owned by the estate, may file in the court a petition, in writing, setting forth the general facts of the estate being then in due course of administration, and particularly describing the mine, interest, or shares which it is desired to sell, and particularly the condition and situation of the mines or mining interests, or of the mining company in which such interests or shares are held, and the grounds upon which the sale is asked to be made.

[*Amendment, approved April 16, 1880; Amendments 1880, 93 (Ban. ed. 291); took effect immediately.*

11,531. *Order to show cause, how made, and on what notice.*

SEC. 1531. Upon the presentation of such petition, the court, or a judge thereof, must make an order directing all persons interested to appear before such court, at a time and place specified, not less than four or more than ten weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator to sell such mine, mining interests, shares, or stocks, as are set forth in the petition and belonging to the estate. A copy of the order to show cause must be personally served on all persons interested in the estate, at least ten days before the time appointed for hearing the petition, or published at least four successive weeks in such newspaper as such court or judge shall specify. If all persons interested in the estate signify in writing their assent to such sale, the notice may be dispensed with. [*Amendment, approved April 16, 1880; Amendments 1880, 93 (Ban. ed. 292); took effect immediately.*

11,532. *Order of sale, when and how made.*

SEC. 1532. If, upon hearing the petition, it appears to the satisfaction of the court that it is to the interest of the estate that such mining property or interests of the estate should be sold, or that an immediate sale is necessary in order to secure the just rights or interests of the mining partners, or tenants in common, such court must make an order authorizing the executor or administrator to sell such mining interests, mines, or shares, as hereinafter provided. [*Amendment, approved April 16, 1880; Amendments 1880, 94 (Ban. ed. 292); took effect immediately.*

11,533. *To sell real estate, when.*

SEC. 1536. When a sale of property of the estate is necessary to pay the allowance of the family, or the debts outstanding against the decedent, or the debts, expenses, or charges of administration, or legacies, the executor or administrator may also sell any real as well as personal property of the estate for that purpose, upon the order of the court; and an application for the sale of real property may also embrace the sale of personal property. [*Amendment, approved April 16, 1880; Amendments 1880, 94 (Ban. ed. 292); took effect immediately.*

11,537. *Verified petition for sale; what to contain, and to what it may refer.*

SEC. 1537. To obtain such order for the sale of real property, he must present a verified petition to the superior court, or a judge thereof, setting forth the amount of personal estate that has come to his hands, and how much thereof, if any, remains undisposed of; the debts outstanding against the decedent, as far as can be ascertained or estimated; the amount due upon the family allowance, or that will be due after the same has been in force for one year; the debts, expenses, and charges of administration already accrued, and an estimate of what will or may accrue during the administration; a general description of all the real property of which the decedent died seised, or in which he had any interest, or in which the estate has acquired any interest, and the condition and value thereof, and whether the same be community or separate property; the names of the legatees and devisees, if any, and of the heirs of the deceased, so far as known to the petitioner. If any of the matters here enumerated can not be ascertained, it must be so stated in the petition; but a failure to set forth the facts showing the sale to be necessary, will

not invalidate the subsequent proceedings, if the defect be supplied by the proofs at the hearing, and the general facts showing such necessity be stated in the decree. [*Amendment, approved April 16, 1880; Amendments 1880, 94 (Ban. ed. 292); took effect immediately.*]

11,540. *Hearing, after proof of service.*

Sec. 1540. The court, at the time and place appointed in such order, or at such other time to which the hearing may be postponed, upon satisfactory proof of personal service, or publication of a copy of the order, by affidavit or otherwise, if the consent in writing to such sale of all parties interested is not filed, must proceed to hear the petition, and hear and examine the allegations and proofs of the petitioners, and of all persons interested in the estate who may oppose the application. All claims against the decedent not before presented, if the period of presentation has not elapsed, may be presented and passed upon at the hearing. [*Amendment, approved April 16, 1880; Amendments 1880, 95 (Ban. ed. 293); took effect immediately.*]

11,541. *Administrator, executor, and witnesses may be examined.*

Sec. 1541. The executor, administrator, and witnesses may be examined on oath by either party, and process to compel them to attend and testify may be issued by the court or judge in the same manner and with like effect as in other cases. [*Amendment, approved April 16, 1880; Amendments 1880, 95 (Ban. ed. 293); took effect immediately.*]

11,549. *Private sale of real estate, how made, and notice—Bids, how and, when received.*

Sec. 1549. When a sale of real estate is ordered to be made at private sale, notice of the same must be posted up in three of the most public places in the county in which the land is situated, and published in a newspaper, if there be one printed in the same county; if none, then in such paper as the court or a judge thereof may direct, for two weeks successively next before the day on or after which the sale is to be made, in which the lands and tenements to be sold must be described with common certainty. The notice must state a day on or after which the sale will be made, and a place where offers or bids will be received. The day last referred to must be at least fifteen days from the first publication of notice; and the sale must not be made before that day, but must be made within six months thereafter. The bids or offers must be in writing, and may be left at the place designated in the notice, or delivered to the executor or administrator personally, or may be filed in the office of the clerk of the court to which the return of sale must be made, at any time after the first publication of the notice and before the making of the sale. If it be shown that it will be for the best interest of the estate, the court or judge may, by an order, shorten the time of notice, which shall not, however, be less than one week, and may provide that the sale may be made on or after a day less than fifteen but not less than eight days from the first publication of the notice, in which case the notice of sale and the sale may be made to correspond with such order. [*Amendment, approved April 16, 1880; Amendments 1880, 95 (Ban. ed. 293); took effect immediately.*]

11,552. *Hearing and setting aside sale, and when resale may be ordered.*

Sec. 1552. The executor or administrator, after making any sale of real estate, must make a return of his proceedings to the court, which must be filed in the office of the clerk, at any time subsequent to the sale. A hearing upon the return of the proceedings may be asked for in the return or by petition subse-

quently, and thereupon the court or judge must fix the day for the hearing, of which notice of at least ten days must be given by the clerk, by notices posted in three public places in the county, or by publication in a newspaper, or both, as the court or judge shall direct, and must briefly indicate the land sold, the sum for which it was sold, and must refer to the return for further particulars. Upon the hearing, the court must examine the return and witnesses in relation to the same, and if the proceedings were unfair, or the sum bid disproportionate to the value, and if it appear that a sum exceeding such bid at least ten per cent., exclusive of the expenses of a new sale, may be obtained, the court may vacate the sale and direct another to be had, of which notice must be given, and the sale in all respects conducted as if no previous sale had taken place; if an offer of ten per cent. more in amount than that named in the return be made to the court in writing, by a responsible person, it is in the discretion of the court to accept such offer and confirm the sale to such person, or to order a new sale. [*Amendment, approved April 16, 1880; Amendments 1880, 95 (Ban. ed. 294); took effect immediately.*]

11,555. Conveyances.

SEC. 1555. Conveyances must thereupon be executed to the purchaser by the executor or administrator, and they must refer to the orders of the court authorizing and confirming the sale of the property of the estate, and directing conveyances thereof to be executed, and to the record of the order of confirmation in the office of the county recorder, either by the date of such recording, or by the date, volume, and page of the record, and such reference shall have the same effect as if the orders were at large inserted in the conveyance. Conveyances so made convey all the right, title, interest, and estate of the decedent, in the premises, at the time of his death; if, prior to the sale, by operation of law or otherwise, the estate has acquired any right, title, or interest in the premises, other than or in addition to that of the decedent at the time of his death, such right, title, or interest also passes by such conveyances. [*Amendment, approved April 16, 1880; Amendments 1880, 96 (Ban. ed. 294); took effect immediately.*]

11,561. Sales without order.

SEC. 1561. When property is directed by the will to be sold, or authority is given in the will to sell property, the executor may sell any property of the estate without order of the court, and at either public or private sale, and with or without notice, as the executor may determine; but the executor must make return of such sales as in other cases; and if directions are given in the will as to the mode of selling, or the particular property to be sold, such directions must be observed. In either case, no title passes unless the sale be confirmed by the court. [*Amendment, approved April 16, 1880; Amendments 1880, 95 (Ban. ed. 295); took effect immediately.*]

11,564. Contribution among legatees.

SEC. 1564. When an estate given by will has been sold for the payment of debts or expenses, all the devisees and legatees must contribute according to their respective interests to the devisee or legatee whose devise or legacy has been taken therefor, and the court, when distribution is made, must, by decree for that purpose, settle the amount of the several liabilities, and decree the amount each person shall contribute, and reserve the same from their distributive shares, respectively, for the purpose of paying such contribution. [*Amend-*

ment, approved April 16, 1880; Amendments 1880, 97 (Ban. ed. 295); took effect immediately.

11,566. Conditions of sale.

SEC. 1566. The sale must be made subject to all payments that may thereafter become due on such contracts, and if there are any such, the sale must not be confirmed by the court until the purchasers execute a bond to the executor or administrator for the benefit and indemnity of himself and of the persons entitled to the interest of the decedent in the lands so contracted for, in double the whole amount of payments thereafter to become due on such contract, with such sureties as the court or judge shall approve. [*Amendment, approved April 16, 1880; Amendments, 1880, 97 (Ban. ed. 295); took effect immediately.*]

11,569. Sales by executors or administrators of lands under mortgage or lien.

SEC. 1569. When any sale is made by an executor or administrator, pursuant to provisions of this chapter, of lands subject to any mortgage or other lien, which is a valid claim against the estate of the decedent, and has been presented and allowed, the purchase money must be applied, after paying the necessary expenses of the sale, first, to the payment and satisfaction of the mortgage or lien, and the residue, if any, in due course of administration. The application of the purchase money to the satisfaction of the mortgage or lien must be made without delay; and the land is subject to such mortgage or lien until the purchase money has been actually so applied. No claim against any estate, which has been presented and allowed, is affected by the statute of limitations, pending the proceedings for the settlement of the estate. The purchase money, or so much thereof as may be sufficient to pay such mortgage or lien, with interest, and any lawful costs and charges thereon, may be paid into the court, to be received by the clerk thereof, whereupon the mortgage or lien upon the land must cease, and the purchase money must be paid over by the clerk of the court without delay, in payment of the expenses of the sale, and in satisfaction of the debt to secure which the mortgage or other lien was taken, and the surplus, if any, at once returned to the executor or administrator, unless for good cause shown, after notice to the executor or administrator, the court otherwise directs. [*Amendment, approved April 16, 1880; Amendments 1880, 97 (Ban. ed. 295); took effect immediately.*]

11,570. The holder of the mortgage or lien may purchase the lands.

SEC. 1570. At any sale, under order of the court, of lands upon which there is a mortgage or lien, the holder thereof may become the purchaser, and his receipt for the amount due him from the proceeds of the sale is a payment pro tanto. If the amount for which he purchased the property is insufficient to defray the expenses and discharge his mortgage or lien, he must pay to the court, or the clerk thereof, an amount sufficient to pay such expenses. [*Amendment, approved April 16, 1880; Amendments 1880, 97 (Ban. ed. 295); took effect immediately.*]

11,573. Limitations of actions for vacating sale, etc.

SEC. 1573. No action for the recovery of any estate sold by an executor or administrator, under the provisions of this chapter, can be maintained by any heir or other person claiming under the decedent, unless it be commenced within three years next after the settlement of the final account of the executor or administrator. An action to set aside the sale may be instituted and maintained at any time within three years from the discovery of the fraud, or other

grounds upon which the action is based. [*Amendment, approved April 16, 1880; Amendments 1880, 112 (Ban. ed. 355); took effect immediately.*]

11,575. Account of sale to be returned.

SEC. 1575. When a sale has been made by an executor or administrator of any property of the estate, real or personal, he must return to the court, within thirty days thereafter, an account of sales, verified by his affidavit. If he neglects to make such return, he may be punished by attachment, or his letters may be revoked, one day's notice having been first given him to appear and show cause why such attachment should not issue, or such revocation should not be made. [*Amendment, approved April 16, 1880; Amendments 1880, 98 (Ban. ed. 296); took effect immediately.*]

11,585. Surviving partner to settle up business—Interest therein to be appraised.

SEC. 1585. When a partnership exists between the decedent, at the time of his death, and any other person, the surviving partner has the right to continue in possession of the partnership, and to settle its business, but the interest of the decedent in the partnership must be included in the inventory, and be appraised as other property. The surviving partner must settle the affairs of the partnership without delay, and account with the executor or administrator, and pay over such balances as may from time to time be payable to him, in right of the decedent. Upon the application of the executor or administrator, the court, or a judge thereof, may, whenever it appears necessary, order the surviving partner to render an account, and in case of neglect or refusal may, after notice, compel it by attachment; and the executor or administrator may maintain against him any action which the decedent could have maintained. [*Amendment, approved April 16, 1880; Amendments 1880, 98 (Ban. ed. 296); took effect immediately.*]

11,588. May compound.

SEC. 1588. Whenever a debtor of the decedent is unable to pay all his debts, the executor or administrator, with the approbation of the court, or a judge thereof, may compound with him and give him a discharge, upon receiving a fair and just dividend of his effects. A compromise may also be authorized when it appears to be just, and for the best interest of the estate. [*Amendment approved April 16, 1880; Amendments 1880, 98 (Ban. ed. 297); took effect immediately.*]

11,590. When executor to sue, as provided in preceding section.

SEC. 1590. No executor or administrator is bound to sue for such estate, as mentioned in the preceding section, for the benefit of the creditors, unless on application of creditors, who must pay such part of the costs and expenses of the suit, or give such security to the executor or administrator therefor, as the court, or a judge thereof, shall direct. [*Amendment, approved April 16, 1880; Amendments 1880, 98 (Ban. ed. 297); took effect immediately.*]

11,591. Disposition of estate recovered.

SEC. 1591. All real estate so recovered must be sold for the payment of debts in the same manner as if the decedent had died seised thereof, upon obtaining an order therefor from the court; and the proceeds of all goods, chattels, rights, and credits so recovered must be appropriated in payment of the debts of the decedent in the same manner as other property in the hands of the executor or administrator. [*Amendment, approved April 16, 1880; Amendments 1880, 98 (Ban. ed. 297); took effect immediately.*]

11,597. *Executor to complete contracts for sale of real estate.*

SEC. 1597. When a person who is bound by contract in writing to convey any real estate dies before making the conveyance, and in all cases when such decedent, if living, might be compelled to make such conveyance, the court may make a decree authorizing and directing his executor or administrator to convey such real estate to the person entitled thereto. [*Amendment, approved April 16, 1880; Amendments 1880, 99 (Ban. ed. 297); took effect immediately.*]

11,598. *Petition for executor to make conveyance, and notice of hearing.*

SEC. 1598. On the presentation of a verified petition by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court, or judge thereof, must appoint a time and place for hearing the petition, and must order notice thereof to be published at least four successive weeks before such hearing, in such newspaper in this State as he may designate. [*Amendment, approved April, 16, 1880; Amendments 1880, 99 (Ban. ed. 297); took effect immediately.*]

11,602. *Rights of petitioner to enforce contract.*

SEC. 1602. If, upon hearing, as hereinbefore provided, the right of the petitioner to have a specific performance of the contract is found to be doubtful, the court must dismiss the petition without prejudice to the right of the petitioner, who may, at any time within six months thereafter, proceed by action to enforce a specific performance thereof. [*Amendment, approved April 16, 1880; Amendments, 1880, 99 (Ban. ed. 298); took effect immediately.*]

11,603. *Effect of conveyance.*

SEC. 1603. Every conveyance made in pursuance of a decree as provided in this chapter, shall pass the title to the estate contracted for, as fully as if the contracting party himself was still living and executed the conveyance. [*Amendment, approved April 16, 1880; Amendments 1880, 99 (Ban. ed. 298); took effect immediately.*]

11,604. *Effect of recording copy of decree.*

SEC. 1604. A copy of the decree for a conveyance, as provided in this chapter, duly certified and recorded in the office of the recorder of the county where the lands lie, gives the person entitled to the conveyance a right to the possession of the lands contracted for, and to hold the same according to the terms of the intended conveyance, in like manner as if they had been conveyed in pursuance of the decree. [*Amendment, approved April 16, 1880; Amendments 1880, 99 (Ban. ed. 298); took effect immediately.*]

11,616. *Compensation of executor and administrator.*

SEC. 1616. He shall be allowed all necessary expenses in the care, management, and settlement of the estate, including reasonable fees paid to attorneys for conducting the necessary proceedings or suits in courts, and for his services such fees as provided in this chapter; but when the decedent, by his will, makes some other provision for the compensation of his executor, that shall be a full compensation for his services, unless, by a written instrument, filed in the court, he renounces all claim for compensation provided by the will. [*Amendment, approved April 16, 1880; Amendments 1880, 99 (Ban. ed. 298); took effect immediately.*]

11,618. *Executors' and administrators' commissions.*

SEC. 1618. When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commission upon the amount of the whole estate accounted for by him, as follows: For the first thousand dol-

lars, at the rate of seven per cent.; for all above that sum and not exceeding ten thousand dollars, at the rate of five per cent.; for all above that sum at the rate of four per cent.; and the same commission must be allowed administrators. In all cases, such further allowance may be made as the court may deem just and reasonable, for any extraordinary service. The total amount of such allowance must not exceed the amount of commissions allowed by this section; and public administrators shall receive the same compensation and allowances as are allowed in this title to other administrators. [*Amendment, approved April 16, 1880; Amendments 1880, 100 (Ban. ed. 298); took effect immediately.*]

11,622. *Exhibit of receipts and disbursements, and claims allowed.*

SEC. 1622. Six months after his appointment, and at any time when required by the court, either upon its own motion or upon the application of any person interested in the estate, the executor or administrator must render, for the information of the court, an exhibit under oath, showing the amount of money received and expended by him, the amount of all claims presented against the estate, and the names of the claimants, and all other matters necessary to show the condition of its affairs. [*Amendment, approved April 16, 1880; Amendments 1880, 100 (Ban. ed. 299); took effect immediately.*]

11,623. *Citation to account.*

SEC. 1623. If the executor or administrator fails to render an exhibit for six months after his appointment, the court, or a judge thereof, must cause a citation to be issued requiring him to appear and render it. [*Amendment, approved April 16, 1880; Amendments 1880, 100 (Ban. ed. 299); took effect immediately.*]

11,624. *Petition for citation to render final or other account.*

SEC. 1624. Any persons interested in the estate may, at any time before the final settlement of accounts, present his petition to the court, or a judge thereof, praying that the executor or administrator be required to appear and render such exhibit, setting forth the facts showing that it is necessary and proper that such an exhibit should be made. [*Amendment, approved April 16, 1880; Amendments 1880, 100 (Ban. ed. 299); took effect immediately.*]

11,625. *Citation to account on application.*

SEC. 1625. If the court, or a judge thereof, is satisfied, either from the oath of the applicant or from any other testimony offered, that the facts alleged are true, and considers the showing of the applicant sufficient, he must direct a citation to be issued to the executor or administrator, requiring him to appear, at some day to be named in the citation, and render an exhibit as prayed for. [*Amendment, approved April 16, 1880; Amendments 1880, 100 (Ban. ed. 299); took effect immediately.*]

11,629. *Executor to account after his authority revoked.*

SEC. 1629. When the authority of an executor or administrator ceases, or is revoked for any reason, he may be cited to account before the court, at the instance of the person succeeding to the administration of the same estate, in like manner as he might have been cited by any person interested in the estate during the time he was executor or administrator. [*Amendment, approved April 16, 1880; Amendments 1880, 100 (Ban. ed. 299); took effect immediately.*]

11,632. *Vouchers for items, when excepted.*

SEC. 1632. On the settlement of his account he may be allowed any item of expenditure not exceeding twenty dollars, for which no voucher is produced, if such item be supported by his own uncontradicted oath positive to the fact of payment, specifying when, where, and to whom it was made; but such allow-

ances in the whole must not exceed five hundred dollars against any one estate, and if, upon such settlement of accounts, it appear that debts against the deceased have been paid without the affidavit and allowance prescribed by statute or sections one thousand four hundred and ninety-four, one thousand four hundred and ninety-five, and one thousand four hundred and ninety-six of this Code, and it shall be proven by competent evidence to the satisfaction of the court that such debts were justly due, were paid in good faith, that the amount paid was the true amount of such indebtedness over and above all payments or set-offs, and that the estate is solvent, it shall be the duty of the said court to allow the said sums so paid in the settlement of said accounts. [*Amendment, approved April 16, 1880; Amendments 1880, 101 (Ban. ed. 299); took effect immediately.*]

11,633. Day of settlement to be appointed; notice thereof.

SEC. 1633. When any account is rendered for settlement, the court, or a judge thereof, must appoint a day for the settlement thereof; the clerk must thereupon give notice thereof by causing notices to be posted in at least three public places in the county, setting forth the name of the estate, the executor or administrator, and the day appointed for the settlement of the account. The court, or a judge thereof, may order such further notice to be given as may be proper. [*Amendment, approved April 16, 1880; Amendments 1880, 101 (Ban. ed. 300); took effect immediately.*]

11,640. Funds pending settlement.

SEC. 1640. Pending the settlement of any estate, on the petition of any party interested therein, and upon good cause shown therefor, the court may order any moneys in the hands of the executors or administrators to be invested for the benefit of the estate in securities of the United States or of this State. Such order can only be made after publication of notice of the petition in some newspaper to be designated by the court, or a judge thereof. [*Amendment, approved April 16, 1880; Amendments 1880, 101 (Ban. ed. 300); took effect immediately.*]

11,649. After decree of payment of debts, executor personally liable to creditors.

SEC. 1649. When a decree is made by the court for the payment of creditors, the executor or administrator is personally liable to each creditor for his allowed claim, or the dividend thereon, and execution may be issued on such decree, as upon a judgment in the court, in favor of each creditor, and the same proceeding may be had under such execution as under execution in other cases. The executor or administrator is liable therefor on his bond to each creditor. [*Amendment, approved April 16, 1880; Amendments 1880, 101 (Ban. ed. 300); took effect immediately.*]

11,661. Decree.

SEC. 1661. If, at the hearing, it appear that the estate is but little indebted, and that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. Each heir, legatee, or devisee obtaining such order, before receiving his share, or any portion thereof, to execute and deliver to the executor or administrator a bond, in such sum as shall be designated by the court, or a judge thereof, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled.

2. The executor or administrator to deliver to the heir, legatee, or devisee, the whole portion of the estate to which he may be entitled, or only a part thereof, designating it. If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of these proceedings shall be paid by the applicant, or if there be more than one, shall be apportioned equally amongst them. [*Amendment, approved April 16, 1880; Amendments, 1880, 102 (Ban. ed. 300); took effect immediately.*]

11,667. Distribution when decedent was not a resident of the State.

Sec. 1667. Upon application for distribution, after final settlement of the accounts of administration, if the decedent was a non-resident of this State, leaving a will which has been duly proved or allowed in the State of his residence, and an authenticated copy thereof has been admitted to probate in this State, and it is necessary, in order that the estate, or any part thereof, may be distributed according to the will, that the estate in this State should be delivered to the executor or administrator in the State, or place of his residence, the court may order such delivery to be made, and, if necessary, order a sale of the real estate, and a like delivery of the proceeds. The delivery, in accordance with the order of the court, is a full discharge of the executor or administrator with the will annexed, in this State, in relation to all property embraced in such order, which, unless reversed on appeal, binds and concludes all parties in interest. Sales of real estate, ordered by virtue of this section, must be made in the same manner as other sales of real estate of decedents by order of the court. [*Amendment, approved April 16, 1880; Amendments 1880, 102 (Ban. ed. 301); took effect immediately.*]

11,669. No distribution till all taxes on personal property paid.

Sec. 1669. Before any decree of distribution of an estate is made, the court must be satisfied, by the oath of the executor or administrator, or otherwise, that all State, county, and municipal taxes, legally levied upon personal property of the estate, have been fully paid. [*Amendment, approved April 16, 1880; Amendments 1880, 102 (Ban. ed. 301); took effect immediately.*]

11,675. Estate in common—Commissioners for partition.

Sec. 1675. When the estate, real or personal, assigned by the decree of distribution to two or more heirs, devisees, or legatees, is in common and undivided, and the respective shares are not separated and distinguished, partition or distribution may be made by three disinterested persons, to be appointed commissioners for that purpose by the court, who must be duly sworn to the faithful discharge of their duties, a certified copy of the order of their appointment, and of the order or decree assigning and distributing the estate, must be issued to them as their warrant, and their oath must be indorsed thereon. Upon consent of the parties, or when the court deems it proper and just, it is sufficient to appoint one commissioner only, who has the same authority and is governed by the same rules as if three were appointed. [*Amendment, approved April 16, 1880; Amendments 1880, 103 (Ban. ed. 301); took effect immediately.*]

11,676. Partition and notice thereof, and time of filing petition.

Sec. 1676. Such partition may be ordered and had in the superior court on the petition of any person interested. But before commissioners are appointed, or partition ordered by the court as directed in this chapter, notice thereof must be given to all persons interested who reside in this State, or to their

guardians, and to the agents, attorneys, or guardians, if any in this State, of such as reside out of the State, either personally or by public notice, as the court may direct. The petition may be filed, attorneys, guardians, and agents appointed, and notice given at any time before the order or decree of distribution, but the commissioners must not be appointed until the order or decree is made distributing the estate. [*Amendment, approved April 16, 1880; Amendments 1880, 103 (Ban. ed. 302); took effect immediately.*]

11,677. Estate in different counties, how divided.

SEC. 1677. If the real estate is in different counties, the court may, if deemed proper, appoint commissioners for all or different commissioners for each county. The estate in each county must be divided separately among the heirs, devisees, or legatees as if there were no other estate to be divided, but the commissioners first appointed must, unless otherwise directed by the court, make division of such real estate wherever situated within this State. [*Amendment approved April 16, 1880; Amendments 1880, 103 (Ban. ed. 302); took effect immediately.*]

11,680. Whole estate may be assigned to one, in certain cases.

SEC. 1680. When the real estate can not be divided without prejudice or inconvenience to the owners, the court may assign the whole to one or more of the parties entitled to share therein, who will accept it, always preferring the males to the females, and, among children, preferring the elder to the younger. The parties accepting the whole must pay to the other parties interested their just proportion of the true value thereof, or secure the same to their satisfaction, or in case of the minority of such party, then to the satisfaction of his guardian; and the true value of the estate must be ascertained and reported by the commissioners. When the commissioners appointed to make partition are of the opinion that the real estate can not be divided without prejudice or inconvenience to the owners, they must so report to the court, and recommend that the whole be assigned as herein provided, and must find and report the true value of such real estate. On filing the report of the commissioners, and on making or securing the payment as before provided, the court, if it appears just and proper, must confirm the report, and thereupon the assignment is complete, and the title to the whole of such real estate vests in the person to whom the same is so assigned. [*Amendment, approved April 16, 1880; Amendments 1880, 103 (Ban. ed. 302); took effect immediately.*]

11,684. To make report, and partition to be recorded.

SEC. 1684. The commissioners must report their proceedings, and the partition agreed upon by them, to the court, in writing, and the court may, for sufficient reasons, set aside the report and commit the same to the same commissioners, or appoint others; and when such report is finally confirmed, a certified copy of the judgment, or decree of partition made thereon, attested by the clerk under the seal of the court, must be recorded in the office of the recorder of the county where the lands lie. [*Amendment, approved April 16, 1880; Amendments 1880, 104 (Ban. ed. 303); took effect immediately.*]

11,685. When commissioners to make partition, not necessary.

SEC. 1685. When the court makes a judgment or decree assigning the residue of any estate to one or more persons entitled to the same, it is not necessary to appoint commissioners to make partition or distribution thereof, unless the parties to whom the assignment is decreed, or some of them, request that

such partition be made. [*Amendment, approved April 16, 1880; Amendments 1880, 104 (Ban. ed. 303); took effect immediately.*]

11,686. *Advancements to heirs.*

SEC. 1686. All questions as to advancements made, or alleged to have been made, by the decedent to his heirs, may be heard and determined by the court, and must be specified in the decree assigning and distributing the estate; and the final judgment or decree of the court, or in case of appeal, of the supreme court, is binding on all parties interested in the estate. [*Amendment, approved April 16, 1880; Amendments 1880, 104 (Ban. ed. 303); took effect immediately.*]

11,692. *Agent to give bond, and compensation.*

SEC. 1692. The agent must execute a bond to the State of California, to be approved by the court, or a judge thereof, conditioned that he shall faithfully manage and account for the estate. The court appointing such agent may allow a reasonable sum out of the profits of the estate for his services and expenses. [*Amendment, approved April 16, 1880; Amendments 1880, 104 (Ban. ed. 303); took effect immediately.*]

11,693. *Unclaimed estate, how disposed of.*

SEC. 1693. When personal property remains in the hands of the agent unclaimed for a year, and it appears to the court that it is for the benefit of those interested, it shall be sold under the order of the court, and the proceeds, after deducting the expenses of the sale allowed by the court, must be paid into the State treasury. When the payment is made, the agent must take from the treasury duplicate receipts, one of which he must file in the office of the controller and the other in the court. [*Amendment, approved April 16, 1880; Amendments 1880, 104 (Ban. ed. 303); took effect immediately.*]

11,694. *When real and personal property of absentees to be sold.*

SEC. 1694. The agent must render the court appointing him, annually, an account, showing:

1. The value and character of the property received by him, what portion thereof is still on hand, what sold, and for what.

2. The income derived therefrom.

3. The taxes and assessments imposed thereon, for what, and whether paid or unpaid.

4. Expenses incurred in the care, protection, and management thereof, and whether paid or unpaid. When filed the court may examine witnesses and take proofs in regard to the account; and if satisfied from such accounts and proofs that it will be for the benefit and advantage of the persons interested therein, the court may, by order, direct a sale to be made of the whole or such parts of the real or personal property as shall appear to be proper, and the purchase-money to be deposited in the State treasury. [*Amendment, approved April 16, 1880; Amendments 1880, 105 (Ban. ed. 304); took effect immediately.*]

11,696. *Certificate to claimant.*

SEC. 1696. When any person appears and claims the money paid into the treasury, the court making the distribution must inquire into such claim, and being first satisfied of his right thereto, must grant him a certificate to that effect, under its seal; and upon the presentation of the certificate to him, the controller must draw his warrant on the treasurer for the amount. [*Amendment, approved April 16, 1880; Amendments 1880, 105 (Ban. ed. 304); took effect immediately.*]

11,704. *Orders and decrees to be entered in minutes.*

SEC. 1704. Orders and decrees made by the court, or a judge thereof, in probate proceedings, need not recite the existence of facts, or the performance of acts, upon which the jurisdiction of the court or judge may depend, but it shall only be necessary that they contain the matters ordered or adjudged, except as otherwise provided in this title. All orders and decrees of the court or judge must be entered at length in the minute book of the court. [*Amendment, approved April 16, 1880; Amendments 1880, 105 (Ban. ed. 304); took effect immediately.*]

11,705. *How often publication to be made.*

SEC. 1705. When any publication is ordered, such publication must be made daily, or otherwise as often during the prescribed period as the paper is regularly issued, unless otherwise provided in this title. The court, or a judge thereof, may, however, order a less number of publications during the period. [*Amendment, approved April 16, 1880; Amendments 1880, 105 (Ban. ed. 304); took effect immediately.*]

11,706. *Recorded decree or order to impart notice from date of filing.*

SEC. 1706. When it is provided in this title that any order or decree of the court, or a judge thereof, or a copy thereof, must be recorded in the office of the county recorder, from the time of filing the same for record, notice is imparted to all persons of the contents thereof. [*Amendment, approved April 16, 1880; Amendments 1880, 105 (Ban. ed. 305); took effect immediately.*]

11,716. *Issues joined, how tried and disposed of.*

SEC. 1716. All issues of fact joined in probate proceedings must be tried in conformity with the requirements of article two, chapter two, of this title, and in all such proceedings the party affirming is plaintiff, and the one denying or avoiding is defendant. Judgments therein, on the issue joined, as well as for costs, may be entered and enforced by execution or otherwise by the court as in civil actions. [*Amendment, approved April 16, 1880; Amendments 1880, 106 (Ban. ed. 305); took effect immediately.*]

11,718. *Court to appoint attorney for minor or absent heirs, devisees, legatees, or creditors—Compensation.*

SEC. 1718. At or before the hearing of petitions and contests for the probate of wills, for letters testamentary or of administration; for sales of real estate, and confirmations thereof; settlements, partitions, and distributions of estates setting apart homesteads, and all other proceedings where all the parties interested in the estate are required to be notified thereof, the court may, in its discretion, appoint some competent attorney at law to represent in all such proceedings the devisees, legatees, heirs, or creditors of the decedent, who are minors and have no general guardian in the county, or who are non-residents of the State; and those interested who, though they are neither such minors or non-residents, are unrepresented. The order must specify the names of the parties so far as known for whom the attorney is appointed, who is thereby authorized to represent such parties in all such proceedings had subsequent to his appointment. The attorney may receive a fee, to be fixed by the court, for his services, which must be paid out of the funds of the estate as necessary expenses of administration, and upon distribution may be charged to the party represented by the attorney. If, for any cause, it becomes necessary, the court may substitute another attorney for the one first appointed, in which case the fee must be proportionately divided. The non-appointment of an at-

torney will not affect the validity of any of the proceedings. [*Amendment, approved April 16, 1880; Amendments 1880, 106 (Ban. ed. 305); took effect immediately.*]

11,720. *Costs, by whom paid in certain cases.*

SEC. 1720. When it is not otherwise prescribed in this title, the superior court, or the supreme court, on appeal, may, in its discretion, order costs to be paid by any party to the proceedings, or out of the assets of the estate, as justice may require. Execution for the costs may issue out of the superior court. [*Amendment, approved April 16, 1880; Amendments 1880, 106 (Ban. ed. 305); took effect immediately.*]

11,721. *Executor, administrator, etc., to be removed when committed for contempt.*

SEC. 1721. Whenever an executor, administrator, or guardian is committed for contempt in disobeying any lawful order of the court, or a judge thereof, and has remained in custody for thirty days without obeying such order, or purging himself otherwise of the contempt, the court may, by order reciting the facts, and without further showing or notice, revoke his letters and appoint some other person entitled thereto executor, administrator, or guardian in his stead. [*Amendment, approved April 16, 1880; Amendments 1880, 106 (Ban. ed. 306); took effect immediately.*]

11,722. *Service of process on guardian.*

SEC. 1722. Whenever an infant, insane, or incompetent person has a guardian of his estate residing in this State, personal service upon the guardian of any process, notice, or order of the court concerning the estate of a deceased person, in which the ward is interested, is equivalent to service upon the ward, and it is the duty of the guardian to attend to the interests of the ward in the matter. Such guardian may also appear for his ward and waive any process, notice, or order to show cause, which an adult or a person of sound mind might do. [*Amendment, approved April 16, 1880; Amendments 1880, 107 (Ban. ed. 306); took effect immediately.*]

11,726. *What estates to be administered by public administrators.*

SEC. 1726. Every public administrator, duly elected, commissioned, and qualified, must take charge of the estates of persons dying within his county, as follows:

1. Of the estate of decedents for which no administrators are appointed, and which, in consequence thereof, are being wasted, uncared for, or lost;
2. Of the estate of decedents who have no known heirs;
3. Of the estates ordered into his hands by the court; and,
4. Of the estates upon which letters of administration have been issued to him by the court. [*Amendment, approved April, 16, 1880; Amendments 1880, 107 (Ban. ed. 306); took effect immediately.*]

11,729. *Must return inventory, how to administer estates.*

SEC. 1729. The public administrator must make and return a perfect inventory of all estates taken into his possession, administer and account for the same according to the provisions of this title, subject to the control and directions of the court. [*Amendment, approved April 16, 1880; Amendments 1880, 107 (Ban. ed. 306); took effect immediately.*]

11,730. *When public administrator to deliver up estate.*

SEC. 1730. If, at any time, letters testamentary or of administration are regularly granted to any other person on an estate of which the public adminis-

trator has charge, he must, under the order of the court, account for, pay, and deliver to the executor or administrator thus appointed, all the money, property, papers, and estate of every kind in his possession or under his control. [*Amendment, approved April 16, 1880; Amendments 1880, 107 (Ban. ed. 307); took effect immediately.*]

11,733. Order to examine party charged with embezzling estate.

SEC. 1733. When the public administrator complains to the superior court, or a judge thereof, on oath, that any person has concealed, embezzled, or disposed of, or has in his possession any money, goods, property, or effects, to the possession of which such administrator is entitled in his official capacity, the court or judge may cite such person to appear before the court, and may examine him, on oath, touching the matter of such complaint. [*Amendment, approved April 16, 1880; Amendments 1880, 107 (Ban. ed. 307); took effect immediately.*]

11,734. Punishment for refusing to attend.

SEC. 1734. All such interrogatories and answers must be reduced to writing and signed by the party examined, and filed in the court. If the person so cited refuses to appear and submit to such examination, or to answer such interrogatories as may be put to him touching the matter of such complaint, the court may commit him to the county jail, there to remain, in close custody, until he submits to the order of the court. [*Amendment, approved April 16, 1880; Amendments 1880, 107 (Ban. ed. 307); took effect immediately.*]

11,735. Order on public administrator to account.

SEC. 1735. The court may, at any time, order the public administrator to account for and deliver all the money and property of an estate in his hands to the heirs, or to the executors or administrators regularly appointed. [*Amendment, approved April 16, 1880; Amendments 1880, 108 (Ban. ed. 307); took effect immediately.*]

11,736. Every six months to make and publish return of condition of estate.

SEC. 1736. The public administrator must, once in every six months, make to the superior court, under oath, a return of all estates of decedents which have come into his hands, the value of the same, the money which has come into his hands from such estate, and what he has done with it, and the amount of his fees and expenses incurred, and the balance, if any, remaining in his hands; publish the same six times in some newspaper published in the county, or if there is none, then post the same, legibly written or printed, in the office of the county clerk of the county. [*Amendment, approved April 16, 1880; Amendments 1880, 108 (Ban. ed. 307); took effect immediately.*]

11,737. Estate moneys, escheats, etc.

SEC. 1737. It is the duty of every public administrator, as soon as he shall receive the same, to deposit with the county treasurer of the county in which the probate proceedings are pending, all moneys of the estate not required for the current expenses of the administration; and such moneys may be drawn upon the order of the executor or administrator, countersigned by a superior judge, when required for the purposes of administration. It shall be the duty of the county treasurer to receive and safely keep all such moneys, and pay them out upon the order of the executor or administrator, when countersigned by a superior judge, and not otherwise, and to keep an account with such estate of all moneys received and paid to him; and the county treasurer shall be allowed one per cent. upon all moneys received and kept by him, and no greater fees

for any services herein provided; and for the safe keeping and payment of all such moneys, as herein provided, the said treasurer and his sureties shall be responsible upon his official bond. The moneys thus deposited may, upon order of the court, be invested, pending the proceedings, in securities of the United States, or of this State, when such investment is deemed by the court to be for the best interests of the estate. After a final settlement of the affairs of any estate, if there be no heirs, or other claimants thereof, the county treasurer shall pay into the State treasury all moneys and effects in his hands belonging to the estate, upon order of the court; and if any such moneys and effects escheat to the State, they must be disposed of as other escheated estates. [*Amendment, approved April 16, 1880; Amendments 1880, 108 (Ban. ed. 307); took effect immediately.*]

11,740. *Proceedings against public administrator for failure to pay over money as ordered.*

Sec. 1740. When it appears, from the returns made in pursuance of the foregoing sections, that any money remains in the hands of the public administrator (after a final settlement of the estate), unclaimed, which should be paid over to the county treasurer, the superior court, or a judge thereof, must order the same to be paid over to the county treasurer; and on failure of the public administrator to comply with the order within ten days after the same is made, the district attorney for the county must immediately institute the requisite proceedings against the public administrator for a judgment against him and the sureties on his official bond, in the amount of money so withheld, and costs. [*Amendment, approved April 16, 1880; Amendments 1880, 108 (Ban. ed. 308); took effect immediately.*]

GUARDIAN AND WARD.

11,747. *Superior court to appoint guardians, when and on what petition.*

Sec. 1747. The superior court of each county, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either of them, of minors who have no guardian legally appointed by will or deed, and who are inhabitants or residents of the county, or who reside without the state, and have estate within the county. Such appointment may be made on the petition of a relative or other person on behalf of the minor, or on the petition of the minor, if fourteen years of age. Before making such appointment, the court must cause such notice as such court deems reasonable to be given to any person having the care of such minor, and to such relatives of the minor residing in the county as the court may deem proper. [*Amendment, approved April 15, 1880; Amendments 1880, 65 (Ban. ed. 253); took effect immediately.*]

11,748. *When minor may nominate guardian—When not.*

Sec. 1748. If the minor is under the age of fourteen years, the court may nominate and appoint his guardian. If he is fourteen years of age, he may nominate his own guardian, who, if approved by the court, must be appointed accordingly. [*Amendment, approved April 15, 1880; Amendments 1880, 65 (Ban. ed. 253); took effect immediately.*]

11,749. *When appointment made by court when minor is over fourteen.*

Sec. 1749. If the guardian nominated by the minor is not approved by the court, or if the minor resides out of the State, or if, after being duly cited by the court, he neglects for ten days to nominate a suitable person, the court or judge may nominate and appoint a guardian in the same manner as if the

minor were under the age of fourteen years. [*Amendment, approved April 15, 1880; Amendments 1880, 65 (Ban. ed. 253); took effect immediately.*]

11,750. Nomination by minor after arriving at fourteen.

SEC. 1750. When a guardian has been appointed by the court for a minor under the age of fourteen years, the minor, at any time after he attains that age, may appoint his own guardian, subject to the approval of the court. [*Amendment, approved April 15, 1880; Amendments 1880, 65 (Ban. ed. 253); took effect immediately.*]

11,754. Bond of guardian, conditions of.

SEC. 1754. Before the order appointing any person guardian under this chapter takes effect, and before letters issue, the court must require of such person a bond to the minor, with sufficient sureties, to be approved by the judge, and in such sum as he shall order, conditioned that the guardian will faithfully execute the duties of his trust according to law, and the following conditions shall form a part of such bond without being expressed therein:

1. To make an inventory of all the estate, real and personal, of his ward, that comes to his possession or knowledge, and to return the same within such time as the court may order.

2. To dispose of and manage the estate according to law and for the best interest of the ward, and faithfully to discharge his trust in relation thereto, and also in relation to the care, custody, and education of the ward.

3. To render an account on oath of the property, estate, and moneys of the ward in his hands, and all proceeds or interests derived therefrom, and of the management and disposition of the same, within three months after his appointment, and at such other times as the court directs, and at the expiration of his trust to settle his accounts with the court, or with the ward, if he be of full age, or his legal representatives, and to pay over and deliver all the estate, moneys, and effects remaining in his hands, or due from him on such settlement, to the person who is lawfully entitled thereto. Upon filing the bond, duly approved, letters of guardianship must issue to the person appointed. In form the letters of guardianship must be substantially the same as letters of administration, and the oath of the guardian must be indorsed thereon that he will perform the duties of his office as such guardian according to law. [*Amendment, approved April 15, 1880; Amendments 1880, 65 (Ban. ed. 254); took effect immediately.*]

11,755. Court may insert conditions in order appointing guardian.

SEC. 1755. When any person is appointed guardian of a minor, the court may, with the consent of such person, insert in the order of appointment, conditions not otherwise obligatory, providing for the care, treatment, education, and welfare of the minor. The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which he and his sureties on his bond shall be responsible. [*Amendment, approved April 15, 1880; Amendments 1880, 66 (Ban. ed. 254); took effect immediately.*]

11,756. Letters of guardianship and bond of guardian to be recorded.

SEC. 1756. All letters of guardianship issued and all guardians' bonds executed under the provisions of this chapter, with the affidavits and certificates thereon, must be recorded by the clerk of the court having jurisdiction of the persons and estates of the wards. [*Amendment, approved April 15, 1880; Amendments, 1880, 66 (Ban. ed. 254); took effect immediately.*]

11,757. Maintenance of minor out of income of his own property.

SEC. 1757. If any minor having a father living has property, the income of which is sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the expenses of the education and maintenance of such minor may be defrayed out of the income of his own property, in whole or in part, as judged reasonable, and must be directed by the court; and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian. [*Amendment, approved April 15, 1880; Amendments 1880, 66 (Ban. ed. 254); took effect immediately.*]

11,758. Guardian to give bond—Powers limited.

SEC. 1758. Every testamentary guardian must give bond and qualify, and has the same powers and must perform the same duties with regard to the person and estate of his ward as guardians appointed by the court, except so far as their powers and duties are legally modified, enlarged; or changed by the will by which such guardian was appointed. [*Amendment, approved April 15, 1880; Amendments 1880, 67 (Ban. ed. 255); took effect immediately.*]

11,763. Guardians of insane and other incompetent persons.

SEC. 1763. When it is represented to the superior court, or a judge thereof, upon verified petition of any relative or friend, that any person is insane, or from any cause mentally incompetent to manage his property, such court or judge must cause a notice to be given to the supposed insane or incompetent person of the time and place of hearing the case, not less than five days before the time so appointed, and such person, if able to attend, must be produced on the hearing. [*Amendment, approved April 15, 1880; Amendments 1880, 67 (Ban. ed. 255); took effect immediately.*]

11,764. Appointment of guardian by court after hearing.

SEC. 1764. If, after a full hearing and examination upon such petition, it appear to the court that the person in question is incapable of taking care of himself and managing his property, such court must appoint a guardian of his person and estate, with the powers and duties in this chapter specified. [*Amendment, approved April 15, 1880; Amendments 1880, 67 (Ban. ed. 255); took effect immediately.*]

11,766. Proceeding for restoration of insane, etc.

SEC. 1766. Any person who has been declared insane or incompetent, or the guardian, or any relative of such person within the third degree, or any friend may apply, by petition, to the superior court of the county in which he was declared insane, to have the fact of his restoration to capacity judicially determined. The petition shall be verified, and shall state that such person is then sane or competent. Upon receiving the petition, the court must appoint a day for a hearing before the court, and, if the petitioner request it, shall order an investigation before a jury, which shall be summoned and impaneled in the same manner as juries are summoned and impaneled in civil actions. The court shall cause notice of the trial to be given to the guardian of the person so declared insane or incompetent, if there be a guardian, and to his or her husband or wife, if there be one, and to his or her father or mother, if living in the county. On the trial, the guardian or relative of the person so declared insane or incompetent, and, in the discretion of the court, any other person, may contest the right to the relief demanded. Witnesses may be required to appear and testify, as in civil cases, and may be called and examined

by the court on its own motion. If it be found that the person be of sound mind, and capable of taking care of himself and his property, his restoration to capacity shall be adjudged, and the guardian of such person, if such person be not a minor, shall cease. [*Amendment, approved April 15, 1880; Amendments 1880, 67 (Ban. ed. 255); took effect immediately.*]

11,769. *Guardian to recover debts due his ward and represent him.*

SEC. 1769. Every guardian must settle all accounts of the ward, and demand, sue for, and receive all debts due to him, or may, with the approbation of the court, compound for the same and give discharges to the debtor, on receiving a fair and just dividend of his estate and effects; and he must appear for and represent his ward in all legal suits and proceedings, unless another person be appointed for that purpose. [*Amendment, approved April 15, 1880; Amendments 1880, 68 (Ban. ed. 256); took effect immediately.*]

11,773. *Guardian to return inventory of estate of ward.*

SEC. 1773. Every guardian must return to the court an inventory of the estate of his ward within three months after his appointment, and annually thereafter. When the value of the estate exceeds the sum of one hundred thousand dollars, semi-annual returns must be made to the court. The court may, upon application made for that purpose by any person, compel the guardian to render an account to the court of the estate of his ward. The inventories and accounts so to be returned or rendered must be sworn to by the guardian. All the estate of the ward described in the first inventory must be appraised by appraisers appointed, sworn, and acting in the manner provided for regulating the settlement of the estates of decedents. Such inventory, with the appraisement of the property therein described, must be recorded by the clerk of the court in a proper book kept in his office for that purpose. Whenever any other property of the estate of any ward is discovered, not included in the inventory of the estate already returned, and whenever any other property has been succeeded to, or acquired by any ward, or for his benefit, the like proceedings must be had for the return and appraisement thereof that are herein provided in relation to the first inventory and return. [*Amendment, approved April 15, 1880; Amendments 1880, 68 (Ban. ed. 256); took effect immediately.*]

11,774. *Settlements of guardians.*

SEC. 1774. The guardian must, upon the expiration of a year from the time of his appointment, and as often thereafter as he may be required, present his account to the court for settlement and allowance. [*Amendment, approved April 15, 1880; Amendments 1880, 68 (Ban. ed. 256); took effect immediately.*]

11,775. *Allowance of accounts of joint guardians.*

SEC. 1775. When an account is rendered by two or more joint guardians, the court may, in its discretion, allow the same upon the oath of any of them. [*Amendment, approved April 15, 1880; Amendments 1880, 68 (Ban. ed. 257); took effect immediately.*]

11,780. *Investments of proceeds of sales.*

SEC. 1780. If the estate is sold for the purpose of putting out or investing the proceeds, the guardian must make the investment according to his best judgment, or in pursuance of any order that may be made by the court. [*Amendment, approved April 15, 1880; Amendments 1880, 68 (Ban. ed. 257); took effect immediately.*]

11,781. *Order for sale, how obtained.*

SEC. 1781. To obtain an order for such sale, the guardian must present to the

court in which he was appointed guardian a verified petition therefor, setting forth the condition of the estate of his ward, and the facts and circumstances on which the petition is founded, tending to show the necessity or expediency of a sale. [*Amendment, approved April 15, 1880; Amendments 1880, 69 (Ban. ed. 257); took effect immediately.*]

11,782. *Notice to next of kin, how given.*

SEC. 1782. If it appear to the court, or a judge thereof, from the petition, that it is necessary or would be beneficial to the ward that the real estate, or some part of it, should be sold, or that the real and personal estate should be sold, the court must thereupon make an order directing the next of kin of the ward, and all persons interested in the estate, to appear before the court, at a time and place therein specified, not less than four nor more than eight weeks from the time of making such order, to show cause why an order should not be granted for the sale of such estate. If it appear that it is necessary, or would be beneficial to the ward, to sell the personal estate, or some part of it, the court must order the sale to be made. [*Amendment, approved April 15, 1880; Amendments 1880, 69 (Ban. ed. 257); took effect immediately.*]

11,783. *Copy of order to be served, published, or consent filed.*

SEC. 1783. A copy of the order must be personally served on the next of kin of the ward, and on all persons interested in the estate, at least fourteen days before the hearing of the petition, or must be published at least once a week for three successive weeks in a newspaper printed in the county, or if there be none printed in the county, then in such newspaper as may be specified by the court in the order. If written consent to making the order of sale is subscribed by all persons interested therein, and the next of kin, notice need not be served or published. [*Amendment, approved April 15, 1880; Amendments 1880, 69 (Ban. ed. 257); took effect immediately.*]

11,784. *Hearing of application.*

SEC. 1784. The court, at the time and place appointed in the order, or such other time to which the hearing is postponed, upon proof of the service or publication of the order, must hear and examine the proofs and allegations of the petitioner, and of the next of kin, and of all other persons interested in the estate who oppose the application. [*Amendment, approved April 15, 1880; Amendments 1880, 69 (Ban. ed. 257); took effect immediately.*]

11,785. *Who may be examined on such hearing.*

SEC. 1785. On the hearing, the guardian may be examined on oath, and witnesses may be produced and examined by either party, and process to compel their attendance, and testimony may be issued by the court, in the same manner and with like effect as in other cases provided for in this title. [*Amendment, approved April 15, 1880; Amendments 1880, 69 (Ban. ed. 258); took effect immediately.*]

11,788. *Bond before selling.*

SEC. 1788. Every guardian authorized to sell real estate, must, before the sale, give bond to the ward, with sufficient surety, to be approved by the court, or a judge thereof, with condition to sell the same in the manner, and to account for the proceeds of the sale as provided for in this chapter and chapter seven of this title. [*Amendment, approved April 15, 1880; Amendments 1880, 69 (Ban. ed. 258); took effect immediately.*]

11,791. *Conditions of sale of real estate of minor heirs.*

SEC. 1791. All sales of real estate of wards must be for cash, or for part cash

and part deferred payments, the credit in no case to exceed three years from date of sale, as in the discretion of the court is most beneficial to the ward. Guardians making sales must demand and receive from the purchasers, in case of deferred payments, notes, and a mortgage on the real estate sold, with such additional security as the court deems necessary and sufficient to secure the prompt payment of the amounts so deferred, and the interest thereon. [*Amendment, approved April 15, 1880; Amendments 1880, 70 (Ban. ed. 258); took effect immediately.*]

11,792. *Court may order the investment of money of the ward.*

Sec. 1792. The court, on the application of a guardian, or any person interested in the estate of any ward, after such notice to persons interested therein as the court shall direct, may authorize and require the guardian to invest the proceeds of sales, and any other of his ward's money in his hands, in real estate, or in any other manner most to the interest of all concerned therein, and the court may make such other orders and give such directions as are needful for the management, investment, and disposition of the estate and effects as circumstances require. [*Amendment, approved April 15, 1880; Amendments 1880, 70 (Ban. ed. 258); took effect immediately.*]

11,793. *Guardians of non-resident persons.*

Sec. 1793. When a person liable to be put under guardianship, according to the provisions of this chapter, resides without this State and has estate therein, any friend of such person, or any one interested in his estate, in expectancy or otherwise, may apply to the superior court of any county in which there is any estate of such absent person, for the appointment of a guardian, and if, after notice given to all interested, in such manner as such court orders by publication or otherwise, and a full hearing and examination, it appears proper, a guardian for such absent person may be appointed. [*Amendment, approved April 15, 1880; Amendments 1880, 70 (Ban. ed. 258); took effect immediately.*]

11,796. *To what guardianship shall extend.*

Sec. 1796. The guardianship which is first lawfully granted of any person residing without this State extends to all the estate of the ward within this State, and excludes the jurisdiction of the court of every other county. [*Amendment, approved April 15, 1880; Amendments 1880, 70 (Ban. ed. 259); took effect immediately.*]

11,797. *Removal of non-resident ward's property.*

Sec. 1797. When the guardian and ward are both non-residents, and the ward is entitled to property in this State, which may be removed to another State or foreign country without conflict with any restriction or limitation thereupon, or impairing the right of the ward thereto, such property may be removed to the State or foreign country of the residence of the ward, upon the application of the guardian to the superior court of the county in which the estate of the ward, or the principal part thereof, is situated. [*Amendment, approved April 15, 1880; Amendments 1880, 70 (Ban. ed. 259); took effect immediately.*]

11,798. *Proceedings on such removal.*

Sec. 1798. The application must be made upon ten days' notice to the resident executor, administrator, or guardian, if there be such, and upon such application the non-resident guardian must produce and file a certificate, under the hand of the clerk and seal of the court, from which his appointment was derived, showing:

1. A transcript of the record of his appointment.
2. That he has entered upon the discharge of his duties.

3. That he is entitled, by the laws of the State, of his appointment to the possession of the estate of the ward; or, must produce and file a certificate, under the hand and seal of the clerk of the court having jurisdiction in the country of his residence, of the estates of persons under guardianship, or of the highest court of such country, attested by a minister, consul, or vice-consul of the United States, resident in such country, that, by the laws of such country, the applicant is entitled to the custody of the estate of his ward, without the appointment of any court. Upon such application, unless good cause to the contrary is shown, the court must make an order granting to such guardian leave to take and remove the property of his ward to the State or place of his residence, which is authority to him to sue for and receive the same in his own name, for the use and benefit of his ward. [*Amendment, approved April 15, 1880; Amendments 1880, 71 (Ban. ed. 259); took effect immediately.*]

11,799. *Discharge of person in possession.*

SEC. 1799. Such order is a discharge of the executor, administrator, local guardian, or other person in whose possession the property may be at the time the order is made, on filing with the court the receipt therefor of the foreign guardian of such absent ward. [*Amendment, approved April 15, 1880; Amendments 1880, 71 (Ban. ed. 260); took effect immediately.*]

11,800. *Examination of persons suspected of defrauding wards or concealing property.*

SEC. 1800. Upon complaint made to him by any guardian, ward, creditor, or other person interested in the estate or having a prospective interest therein as heir or otherwise, against any one suspected of having concealed, embezzled, or conveyed away any of the money, goods, or effects, or an instrument in writing belonging to the ward or to his estate, the superior court, or a judge thereof, may cite such suspected person to appear before such court, and may examine and proceed with him on such charge in the manner provided in this title with respect to persons suspected of and charged with concealing or embezzling the effects of a decedent. [*Amendment, approved April 15, 1880; Amendments 1880, 71 (Ban. ed. 260); took effect immediately.*]

11,801. *Removal and resignation of guardian and surrender of estate.*

SEC. 1801. When a guardian appointed either by the testator or a court, becomes insane or otherwise incapable of discharging his trust or unsuitable therefor, or has wasted or mismanaged the estate, or failed for thirty days to render an account or make a return, the superior court may, upon such notice to the guardian as the court may require, remove him and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto. Every guardian may resign when it appears proper to allow the same; and upon the resignation or removal of a guardian, as herein provided, the court may appoint another in the place of the guardian who resigned or was removed. [*Amendment, approved April 15, 1880; Amendments 1880, 71 (Ban. ed. 260); took effect immediately.*]

11,802. *Guardianship, how terminated.*

SEC. 1802. The marriage of a minor ward terminates the guardianship of the person of such ward, but not the estate; and the guardian of an insane or other person may be discharged by the court, when it appears on the application of the ward or otherwise, that the guardianship is no longer necessary. [*Amend-*

ment, approved April 15, 1880; Amendments 1880, 72 (Ban. ed. 260); took effect immediately.

11,803. *New bond, when required.*

SEC. 1803. The court may require a new bond to be given by a guardian whenever such court deems it necessary, and may discharge the existing sureties from further liability, after due notice given as such court may direct, when it shall appear that no injury can result therefrom to those interested in the estate. [*Amendment, approved April 15, 1880; Amendments 1880, 72 (Ban. ed. 260); took effect immediately.*]

11,804. *Guardian's bond to be filed.*

SEC. 1804. Every bond given by a guardian must be filed and preserved in the office of the clerk of the superior court of the county, and in case of a breach of a condition thereof, may be prosecuted for the use and benefit of the ward, or of any person interested in the estate. [*Amendment, approved April 15, 1880; Amendments 1880, 71 (Ban. ed. 261); took effect immediately.*]

11,808. *Order appointing guardian, how entered.*

SEC. 1808. Any order appointing a guardian must be entered as and become a decree of the court. The provisions of this title relative to the estates of decedent, so far as they relate to the practice in the superior court, apply to proceedings under this chapter. [*Amendment, approved April 15, 1880; Amendments 1880, 72 (Ban. ed. 261); took effect immediately.*]

EVIDENCE.

11,880. *Persons who can not testify.*

SEC. 1880. The following persons can not be witnesses:

1. Those who are of unsound mind at the time of their production for examination.

2. Children under ten years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

3. Parties or assignors of parties to an action or proceeding, or persons in whose behalf an action or proceeding is prosecuted, against an executor or administrator upon a claim, or demand against the estate of a deceased person, as to any matter of fact occurring before the death of such deceased person. [*Amendment, approved April 16, 1880; Amendments 1880, 112 (Ban. ed. 347); took effect immediately.*]

11,994. *Contents of warrant.*

SEC. 1994. Every warrant of commitment, issued by a court or officer pursuant to this chapter, must specify therein, particularly, the cause of the commitment, and if it be for refusing to answer a question, such question must be stated in the warrant. And every warrant to arrest or commit a witness, pursuant to this chapter, must be directed to the sheriff of the county where the witness may be, and must be executed by him in the same manner as process issued by the superior court. [*Amendment, approved April 16, 1880; Amendments 1880, 114 (Ban. ed. 380); took effect immediately.*]

11,995. *If a witness be a prisoner, how brought.*

SEC. 1995. If the witness be a prisoner, confined in a jail or prison within this State, an order for his examination in the prison upon deposition, or for his temporary removal and production before a court or officer, for the purpose of being orally examined, may be made as follows:

1. By the court itself in which the action or special proceeding is pending, unless it be in a justice's court.

2. By a justice of the supreme court, or a judge of the superior court of the county where the action or proceeding is pending, if pending before a justice's court, or before a judge or other person out of court. [*Amendment, approved April 16, 1880; Amendments 1880, 115 (Ban. ed. 381); took effect immediately.*]

12,021. *Testimony of a witness in the State; when taken.*

SEC. 2021. The testimony of a witness in this State may be taken by deposition in an action at any time after the service of the summons on the appearance of the defendant, and in a special proceeding after a question of fact has arisen therein, in the following cases:

First—When the witness is a party to the action or proceeding, or an officer or member of a corporation which is a party to the action or proceeding, or a person for whose immediate benefit the action or proceeding is prosecuted or defended.

Second—When the witness resides out of the county in which his testimony is to be used.

Third—When the witness is about to leave the county where the action is to be tried, and will probably continue absent when the testimony is required.

Fourth—When the witness, otherwise liable to attend the trial, is nevertheless too infirm to attend.

Fifth—When the testimony is required upon a motion, or in any other case where the oral examination of the witness is not required.

Sixth—When the witness is the only one who can establish facts or a fact material to the issue; provided, that the deposition of such witness shall not be used if his presence can be procured at the time of the trial of the cause. [*Amendment, approved March 9, 1878; Amendments 1877-8, 112; took effect sixtieth day after passage.*]

12,024. *Testimony of witness out of State, how taken—Out of the United States, how taken.*

SEC. 2024. The deposition of a witness out of this State may be taken upon commission issued from the court, under the seal of the court, upon an order of the court, or a judge thereof, on the application of either party, upon five days' previous notice to the other. If issued to any place within the United States, it may be directed to a person agreed upon by the parties, or, if they do not agree, to any judge or justice of the peace, or commissioner, selected by the court or judge issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States in such country, or to any person agreed upon by the parties. [*Amendment, approved April 16, 1880; Amendments 1880, 115 (Ban. ed. 381); took effect immediately.*]

12,036. *How to procure witness upon commission.*

SEC. 2036. If a commission to take such testimony has been issued from the court, or a judge thereof, before which such action or proceeding is pending, on producing the commission to a judge of the superior court with an affidavit satisfactory to him of the materiality of the testimony, he may issue a subpoena to the witness, requiring him to appear and testify before the commissioner named in the commission, at a specified time and place. [*Amendment, approved April 16, 1880; Amendments 1880, 115 (Ban. ed. 381); took effect immediately.*]

12,037. *How if no commission.*

SEC. 2037. If a commission has not been issued, and it appear to a judge of the superior court, or a justice of the peace, by affidavit satisfactory to him:

1. That the testimony of the witness is material to either party.
2. That a commission to take the testimony of such witness has not been issued.

3. That, according to the law of the State where the action or special proceeding is pending, the deposition of a witness taken under such circumstances, and before such judge or justice, will be received in the action or proceeding; he must issue his subpoena requiring the witness to appear and testify before him at a specified time and place. [*Amendment, approved April 16, 1880; Amendments 1880, 115 (Ban. ed. 381); took effect immediately.*]

12,070. *Court to discharge witness from arrest.*

SEC. 2070. The court or officer issuing the subpoena, and the court or officer before whom the attendance is required, may discharge the witness from an arrest made in violation of section two thousand and sixty-seven. If the court have adjourned before the arrest, or before application for the discharge, a judge of the court may grant the discharge. [*Amendment, approved April 16, 1880; Amendments 1880, 116 (Ban. ed. 382); took effect immediately.*]

12,084. *Manner of application for order.*

SEC. 2084. The applicant must produce to a judge of the superior court a petition, verified by the oath of the applicant, stating:

1. That the applicant expects to be a party to an action in a court in this State, and, in such case, the names of the persons whom he expects will be adverse parties; or,

2. That the proof of some fact is necessary to perfect the title to property in which he is interested, or to establish marriage, descent, heirship, or any other matter which may hereafter become material to establish, though no suit may at the time be anticipated, or, if anticipated, he may not know the parties to such suit; and,

3. The name of the witness to be examined, his place of residence, and a general outline of the facts expected to be proved. The judge to whom such petition is presented must make an order allowing the examination, and designating the officer before whom the same must be taken, and prescribing the notice to be given, which notice, if the parties expectant are known and reside in this State, must be personally served, and, if unknown, such notice must be served on the clerk of the county where the property to be affected by such evidence is situated, or the judge making the order resides, as may be directed by him, and by publication thereof in some newspaper, to be designated by the judge, for the same period required for the publication of summons. The judge must also designate in his order the clerk of the county to whom the deposition must be returned when taken. [*Amendment, approved April 16, 1880; Amendments 1880, 116 (Ban. ed. 382); took effect immediately.*]

Amendments to the Penal Code.

CRIMES AGAINST ELECTIVE FRANCHISE.

13,062.

An Act to prohibit "Piece Clubs" and to prevent extortion from candidates for office.

Approved March 14, 1878; 1877-8, 236.

[This act is given in full, ante, 1243.]

CRIMES AGAINST LEGISLATIVE POWER.

13,086. *Receiving bribes by members of the legislature.*

SEC. 86. Every member of either of the houses composing the legislature of this State who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner, or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or gives, or offers, or promises to give any official vote in consideration that another member of the legislature shall give any such vote, either upon the same or another question is punishable by imprisonment in the State prison not less than one nor more than fourteen years, and upon conviction thereof shall, in addition to said punishment, forfeit his office, be disfranchised, and forever disqualified from holding any office or public trust. [*Amendment, approved April 6, 1880; Amendments 1880, 7 (Ban. ed. 128); took effect immediately.*]

13,089. *Obtaining money or property to influence vote of legislator a felony.*

SEC. 89. Every person who obtains, or seeks to obtain money or other thing of value from another person, upon a pretense, claim, or representation that he can or will improperly influence in any manner the action of any member of a legislative body in regard to any vote or legislative matter, is guilty of a felony. Upon the trial no person otherwise competent as a witness shall be excused from testifying as such concerning the offense charged, on the grounds that such testimony may criminate himself, or subject him to public infamy, but such testimony shall not afterwards be used against him in any judicial proceeding except for perjury in giving such testimony. [*Amendment, approved April 6, 1880; Amendments 1880, 7 (Ban. ed. 128); took effect immediately.*]

BRIBERY AND CORRUPTION.

13,099. *Superintendent of State printing not to be interested.*

SEC. 99. The superintendent of State printing shall not, during his continuance in office, have any interest, directly or indirectly, in any printing of any kind, or in any binding, engraving, or lithographing, or in a contract for furnishing paper or other printing stock or material connected with the State printing; and any violation of these provisions shall subject him, on conviction before a court of competent jurisdiction, to imprisonment in the State prison

for a term of not less than two years, nor more than five years, and a fine of not less than one thousand dollars, nor more than three thousand dollars, or by both such fine and imprisonment. [*Amendment, approved April 1, 1878; Amendments 1877-8, 11; took effect from passage; repealed conflicting acts.*]

ESCAPES AND AIDING THEREIN.

13,105. *Escapes from State prison.*

SEC. 105. Every prisoner confined in the State prison for a term less than for life, who escapes therefrom, is punishable by imprisonment in the State prison for a term equal in length to the term he was serving at the time of such escape; said second term of imprisonment to commence from the time he would otherwise have been discharged from said prison. [*Amendment, approved April 16, 1880; Amendments 1880, 42 (Ban. ed. 379); took effect immediately.*]

13,106. *Attempt to escape from State prison.*

SEC. 106. Every prisoner confined in the State prison for a term less than for life, who attempts to escape from such prison, is guilty of a felony, and on conviction thereof, the term of imprisonment therefor shall commence from the time such convict would otherwise have been discharged from said prison. [*Amendment, approved April 16, 1880; Amendments 1880, 42 (Ban. ed. 379); took effect immediately.*]

13,111. *Costs of trials for escapes or for crimes committed in State prison to be charge against State.*

SEC. 111. Whenever a trial shall be had of any person under any of the provisions of sections one hundred and five and one hundred and six of this Code, and whenever a convict in the State prison shall be tried for any crime committed therein, the county clerk of the county where such trial is had shall make out a statement of all the costs incurred by the county for the trial of such case, and of guarding and keeping such convict, properly certified to by a superior judge of said county, which statement shall be sent to the board of State prison directors for their approval; and after such approval, said board shall cause the amount of such costs to be paid out of the money appropriated for the support of the State prison to the county treasurer of the county where such trial was had. [*New Section, approved April 6, 1880; Amendments 1880, 9 (Ban. ed. 130); took effect immediately.*]

OFFENSES AGAINST PUBLIC JUSTICE.

13,150.

An Act to authorize boards of supervisors to pay the expenses of posse comitatus in criminal cases.

Approved April 16, 1880; 1880, 120 (Ban. ed. 341).

Expenses of posse comitatus.

SECTION 1. The board of supervisors of any county may allow, in their discretion, such compensation as they may deem just, to defray the necessary expenses that have been incurred by a posse comitatus in criminal cases; provided, no claim shall be allowed for expenses which have not been incurred within one year before such allowance.

SEC. 2. This act shall take effect and be in force from and after its passage.

13,178. *Officers and employes of corporations not to employ Chinese.*

SEC. 178. Any officer, director, manager, member, stockholder, clerk, agent, servant, attorney, employe, assignee, or contractor of any corporation now existing, or hereafter formed under the laws of this State, who shall employ, in

13,178-13,228 AMENDMENTS TO THE PENAL CODE.

any manner or capacity, upon any work or business of such corporation, any Chinese or Mongolian, is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail of not less than fifty nor more than five hundred days, or by both such fine and imprisonment; provided, that no director of a corporation shall be deemed guilty under this section who refuses to assent to such employment, and has such dissent recorded in the minutes of the board of directors.

1. Every person who, having been convicted for violating the provisions of this section, commits any subsequent violation thereof after such conviction, is punishable as follows:

- 2. For each subsequent conviction such person shall be fined not less than five hundred nor more than five thousand dollars, or by imprisonment not less than two hundred and fifty days nor more than two years, or by both such fine and imprisonment. [*New Section, approved February 13, 1880; Amendments 1880, 1 (Ban. ed. 6); took effect immediately.*]

13,179. Corporations not to employ Chinese—Penalty.

Sec. 179. Any corporation now existing, or hereafter formed under the laws of this State, that shall employ, directly or indirectly, in any capacity, any Chinese or Mongolian, shall be guilty of a misdemeanor, and upon conviction thereof shall for the first offense be fined not less than five hundred nor more than five thousand dollars, and upon the second conviction shall, in addition to said penalty, forfeit its charter and franchise, and all its corporate rights and privileges, and it shall be the duty of the attorney-general to take the necessary steps to enforce such forfeiture. [*Amendment, approved February 13, 1880; Amendments 1880, 2 (Ban. ed. 6); took effect immediately.*]

An Act relating to the intoxication of officers.

Approved April 15, 1880; 1880, 77 (Ban. ed. 265).

Intoxication of officers—Misdemeanor.

SECTION 1. Any officer of a town, village, city, county, or State, who shall be intoxicated while in discharge of the duties of his office, or by reason of intoxication is disqualified for the discharge of, or neglects his duties, shall be guilty of a misdemeanor, and on conviction of such misdemeanor shall forfeit his office; and in such case the vacancy occasioned thereby shall be filled in the same manner as if such officer had filed his resignation in the proper office, and it had been accepted by the proper authority; provided, such acceptance shall have been necessary to make the office vacant.

Sec. 2. This act shall take effect immediately.

DUELS AND CHALLENGES.

13,228. Persons fighting duels disfranchised.

Sec. 228. Any citizen of this State who shall fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage, and shall be declared so disqualified in the judgment, upon conviction. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 129); took effect immediately.*]

13,297.

VIOLATING SEPULTURE AND THE REMAINS OF THE DEAD.

An Act to protect public health from infection caused by exhumation and removal of the remains of deceased persons.

Approved April 1, 1878; 1877-8, 1050.

Disinterring of bodies unlawful without permit.

SECTION 1. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place, the body or remains of any deceased person, unless the person or persons so doing shall first obtain, from the board of health, health officer, mayor or other head of the municipal government of the city, town, or city and county where the same are deposited, a permit for said purpose. Nor shall such body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be removed or transported in or through the streets or highways of any city, town, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain, from the board of health or health officer (if such board or officer there be), and from the mayor or other head of the municipal government of the city or town, or city and county, a permit, in writing, so to remove or transport such body or remains in and through such streets and highways.

Permits granted upon what.

SEC. 2. Permits to disinter or exhume the bodies or remains of deceased persons, as in the last section, may be granted, provided the person applying therefor shall produce a certificate from the coroner, the physician who attended such deceased person, or other physician in good standing cognizant of the facts, which certificate shall state the cause of death or disease of which the person died, and also the age and sex of such deceased; and provided further, that the body or remains of deceased shall be inclosed in a metallic case or coffin, sealed in such manner as to prevent, as far practicable, any noxious or offensive odor or effluvia escaping therefrom, and that such case or coffin contains the body or remains of but one person, except where infant children of the same parent or parents, or parent and children are contained in such case or coffin. And the permit shall contain the above conditions and the words: "Permit to remove and transport the body of — —, age — —, sex — —," and the name, age, and sex shall be written therein. The officer of the municipal government of the city or town, or city and county, granting such permit, shall require to be paid for each permit the sum of ten dollars, to be kept as a separate fund by the treasurer, and which shall be used in defraying expenses of and in respect to such permits, and for the inspection of the metallic cases, coffins, and inclosing boxes herein required; and an account of such moneys shall be embraced in the accounts and statements of the treasurer having the custody thereof.

Misdemeanor.

SEC. 3. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed from a grave, vault, or other receptacle or burial place, the body or remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days, nor more than six months, or by both such fine and imprisonment. Nor shall it be lawful to receive such body, bones, or remains on any vehicle, car, barge, boat, ship, steamship, steamboat, or vessel, for transportation in or from this State, unless the permit to transport the

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same is first received, and is retained in evidence by the owner, driver, agent, superintendent, or master of the vehicle, car, or vessel.

Transportation of bodies exhumed without permit—Misdemeanor.

SEC. 4. Any person or persons who shall move or transport, or cause to be moved or transported, on or through the streets or highways of any city or town, or city and county, of this State, the body or remains of a deceased person, which shall have been disinterred or exhumed without a permit, as described in section two of this act, shall be guilty of a misdemeanor, and be punishable as provided in section three of this act.

Reward for information.

SEC. 5. Any person who shall give information to secure the conviction of any person or persons for the violation of the provisions of this act, shall be entitled to receive the sum of twenty-five dollars, to be paid from the fund collected from fines imposed and accruing under this act.

SEC. 6. Nothing in this act contained shall be taken to apply to the removal of the remains of deceased persons from one place of interment to another cemetery or place of interment within the same county; provided, that no permit shall be issued for the disinterment or removal of any body unless such body has been buried for two years.

SEC. 7. This act shall take effect and be in force from the thirtieth day after its passage and approval.

CRIMES AGAINST RELIGION AND CONSCIENCE, AND OTHER OFFENSES AGAINST GOOD MORALS.

13,301. *Limitation on operation of preceding section.*

SEC. 301. The provisions of the preceding section do not apply to persons, who, on Sunday, keep open hotels, boarding houses, barber shops, baths, markets, restaurants, taverns, livery stables, or retail drug stores, for the legitimate business of each, or such manufacturing establishments as are usually kept in continued operation; provided, that the provisions of the preceding section shall apply to persons keeping open barber shops, bath houses, and hair-dressing saloons after 12 o'clock m. on Sunday. [*Amendment, approved April 15, 1880; Amendments 1880, 38 (Ban. ed. 252); took effect fifteen days after approval.*]

An Act to regulate and provide for a day of rest in certain cases.

Approved April 16, 1880; 1880, 80 (Ban. ed. 311).

Bakers' day of rest.

SECTION 1. It shall be unlawful for any person engaged in the business of baking to engage or permit others in his employ to engage in the labor of baking, for the purpose of sale, between the hours of six o'clock p. m. on Saturday and six o'clock p. m. on Sunday, except in the setting of sponge preparatory to the night's work; provided, however, that restaurants, hotels and boarding houses may do such baking as is necessary for their own consumption.

Misdemeanor, penalty.

SEC. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor, and shall be punishable by imprisonment in the county jail not less than one month nor more than six months, or by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by both fine and imprisonment.

SEC. 3. This act shall take effect and be in force from and after its passage.

13,309. *To prevent admission of minors to houses of prostitution.*

SEC. 309. Any proprietor, keeper, manager, conductor, or person having the control of any house of prostitution, or any house or room resorted to for the purpose of prostitution, who shall admit or keep any minor of either sex therein; or any parent or guardian of any such minor, who shall admit or keep such minor, or sanction, or connive at the admission or keeping thereof, into, or in any such house, or room, shall be guilty of a misdemeanor. [*New section, approved April 12, 1880; Amendments 1880, 35 (Ban. ed. 202); took effect immediately.*]

An Act for the protection of children, and to prevent and punish certain wrongs to children.

Approved March 30, 1878; 1877-8, 813.

Minor not to enter saloon—Penalty.

SECTION 1. No minor, under the age of sixteen years, shall be admitted at any time to, or permitted to remain in, any saloon or place of entertainment where any spirituous liquors, or wines, or intoxicating or malt liquors are sold, exchanged, or given away, or at places of amusement known as dance-houses and concert saloons, unless accompanied by parent or guardian. Any proprietor, keeper, or manager of any such place who shall admit such minor to, or permit him or her to remain in any such place, unless accompanied by parent or guardian, shall be guilty of a misdemeanor.

Begging restrained—Penalty for violation.

SEC. 2. Every person having the care, custody, or control of any child under the age of sixteen years, shall restrain such child from begging, whether actually begging, or under the pretext of peddling. Any person offending against this section shall be arrested, and brought before a court or magistrate, and for the first offense shall be reprimanded, and for each subsequent offense shall be guilty of a misdemeanor.

Penalty for begging.

SEC. 3. Any child, apparently under the age of sixteen years, that comes within any of the following descriptions, named:

(a) That is found begging, or receiving, or gathering alms (whether actually begging, or under the pretext of selling, or offering for sale, anything), or being in any street, road, or public place for the purpose of so begging, gathering, or receiving alms.

(b) That is found wandering and not having any house or settled place of abode, or proper guardianship, or visible means of subsistence.

(c) That is found destitute, either being an orphan, or having a vicious parent, who is undergoing penal servitude or imprisonment.

(d) That frequents the company of reputed thieves or prostitutes, or houses of prostitution or assignation, or dance-houses, concert saloons, theaters, and varieties, or places specified in the first section of this act, without parent or guardian, shall be arrested, and brought before a court or magistrate.

When, upon examination before a court or magistrate, it shall appear that any such child has been engaged in any of the aforesaid acts, or comes within any of the aforesaid descriptions, such court or magistrate, when it shall deem it expedient for the welfare of the child, may commit such child to an orphan asylum, society for the prevention of cruelty to children, charitable or other institution, or make such other disposition thereof as now is or may hereafter be provided by law in cases of vagrant, truant, disorderly, pauper, or destitute children.

Child not to be confined.

Sec. 4. No child under restraint or conviction, apparently under the age of sixteen years, shall be placed in any prison, or place of confinement, or in any court-room, or in any vehicle for transportation to any place, in company with adults charged with or convicted of crime, except in the presence of a proper official.

Sec. 5. This act shall take effect immediately.

An Act relating to children.

Approved March 30, 1878; 1877-8, 813.

Persons selling or apprenticing children for immoral purpose.

SECTION 1. Any person, whether as parent, relative, guardian, employer, or otherwise, having the care, custody, or control of any child under the age of sixteen years, who shall exhibit, use, or employ, or who shall in any manner, or under any pretense, sell, apprentice, give away, let out, or otherwise dispose of any such child to any person, under any name, title, or pretense, in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever; or for or in any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for or in any mendicant or wandering business whatsoever, or for or in any business, exhibition, or vocation injurious to the health, or dangerous to the life or limb, of such child; or who shall cause, procure, or encourage any such child to engage therein, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment; provided, that nothing in this section contained shall apply to or affect the employment or use of any such child, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music; or the employment of any such child as a musician at any concert or other musical entertainment, on the written consent of the mayor of the city or president of the board of trustees of the town where such concert or entertainment shall take place.

Offense, how punished.

Sec. 2. Every person who shall take, receive, hire, employ, use, exhibit, or have in custody, any child under the age, and for any of the purposes mentioned in the preceding section, shall be guilty of a like offense and punished by a like punishment as therein provided.

Court to commit child to asylum.

Sec. 3. When, upon examination before any court or magistrate, it shall appear that any child, within the age previously mentioned in this act, was engaged, or used for or in any business, or exhibition, or vocation, or purpose designated, and as mentioned in this act, and when upon the conviction of any person having the custody of a child of a criminal assault upon it, the court or magistrate before whom such conviction is had, shall deem it desirable for the welfare of such child that the person so convicted should be deprived of its custody thereafter, such court or magistrate may commit such child to any orphan asylum, society for the prevention of cruelty to children, charitable or other institution, or make such other disposition thereof as now is, or hereafter

may be, provided by law in cases of vagrant, truant, disorderly, pauper, or destitute children.

Causing child to suffer, penalty for.

SEC. 4. Whoever shall willfully cause or permit any child to suffer, or who shall inflict thereon unjustifiable physical pain or mental suffering, and whoever, having the care or custody of any child, shall willfully cause or permit the life or limb of such child to be endangered, or the health of such child to be injured, or any person who shall willfully cause or permit such child to be placed in such a situation that its life or limb may be endangered, or its health shall be likely to be injured, shall be guilty of a misdemeanor.

Fines, how appropriated.

SEC. 5. All fines, penalties, and forfeitures imposed and collected in any county of this State, under the provisions of this and every act passed, or which may be passed, relating to or affecting children, in every case where the prosecution was instituted or conducted by a society incorporated pursuant to the provisions of chapter five hundred and forty-nine of the Statutes of 1875-6, approved April 3, 1876, being an act entitled "An Act for the incorporation of societies for the prevention of cruelty to children," shall, except where otherwise provided, inure to such society in aid of the purposes for which it was incorporated.

SEC. 6. This act shall take effect immediately.

BAWDY AND OTHER DISORDERLY HOUSES.

13,318. *Prevailing upon person to visit place kept for gambling or prostitution, misdemeanor.*

SEC. 318. Whoever, through invitation or device, prevails upon any person to visit any room, building, or other places kept for the purpose of gambling or prostitution, is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars, or be punished by both such fine and imprisonment. [New Section, approved April 16, 1880; Amendments 1880, 40 (Ban. ed. 336); took effect from passage.

GAMING.

13,332. *Winning at play by fraudulent means.*

SEC. 332. Every person who by the game of "three-card monte," so called, or any other game, device, sleight of hand, pretensions to fortune-telling, trick, or other means whatever, by use of cards or other implements or instruments, or while betting on sides or hands of any such play or game, fraudulently obtains from another person money or property of any description, shall be punished as in case of larceny of property of like value. [Amendment, approved April 16, 1880; Amendments 1880, 40 (Ban. ed. 339); took effect immediately.

CRIMES AGAINST PUBLIC HEALTH.

13,376. *Violation of quarantine laws by masters of vessels.*

SEC. 376. Every master of a vessel subject to quarantine or visitation by the quarantine officer, arriving in the Port of San Francisco, who refuses or omits:

1. To proceed with and anchor his vessel at the place assigned for quarantine at the time of his arrival; or
2. To submit his vessel, cargo, and passengers to the examination of the

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quarantine officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought, respectively, to be subject; or

3. To remain with his vessel at the quarantine during the period assigned for her quarantine, and while at quarantine to comply with the regulations prescribed by law, and with such as any of the officers of health, by virtue of authority given them by law, shall prescribe in relation to his vessel, his cargo, himself, his passengers or crew—

Is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding two thousand dollars, or both. [*Amendment, approved March 9, 1878; Amendments 1877-8, 116; took effect from passage.*]

13,380.

An Act to regulate the sale of certain poisonous substances.

Approved April 16, 1880; 1880, 102 (San. ed. 341).

[This act, which provides punishments for the sales of various specified poisons except under certain restrictions, will be found given in full under the head of "Medicine," post, 15,630.]

13,382.

An Act to prevent the sale of oleomargarine under the name of and pretense that said commodity is butter.

Approved March 26, 1878; 1877-8, 535.

Selling oleomargarine as butter, misdemeanor.

SECTION 1. Every person who sells, or keeps for sale, or offers for sale, or otherwise disposes of any quantity of oleomargarine, under the name of, or under the pretense that the same is butter, or shall keep for sale, or manufacture any quantity of oleomargarine, without branding the same, or the package in which it is contained, with the word oleomargarine, shall be deemed guilty of a misdemeanor, and on conviction thereof before a court of competent jurisdiction shall be punishable by imprisonment in the county jail for a term not less than fifty nor more than two hundred days, or by fine not less than fifty nor more than two hundred dollars, or by both such fine and imprisonment.

SEC. 2. This act shall take effect and be in force from and after its passage.

An Act to prohibit and punish the sale of adulterated syrup.

Approved March 29, 1878; 1877-8, 695.

Selling adulterated syrup.

SECTION 1. Any person who shall knowingly sell, or keep, or offer for sale, or otherwise dispose of any syrup, or golden drips syrup, silver drips syrup, or molasses, containing muriatic or sulphuric acids, or glucose, or adulterated with any other substance to improve the color thereof, shall be guilty of a misdemeanor.

Penalty.

SEC. 2. Any person violating the provisions of section one of this act shall be punished, and imprisoned in the county jail of the county in which the offense is committed for a period not exceeding six months, or by a fine not exceeding five hundred dollars, or both.

SEC. 3. This act shall take effect from and after its passage.

13,401. *Adulteration of candies.*

SEC. 401. Every person who adulterates candy, by using in its manufacture terra alba, or any other deleterious substance or substances, or who sells or keeps for sale any candy or candies adulterated with terra alba or any other

deleterious substance or substances, is guilty of a misdemeanor. [*New Section, approved March 16, 1878; Amendments 1877-8, 116; took effect from passage.*

[The legislature of 1873-4 added a new section 400, and that of 1877-8 the foregoing new section 401. The legislature of 1880, overlooking the fact that those numbers had thus been appropriated, passed two new sections, having the same numbers, as follows:]

Sale or exposure of animals having glanders—Misdemeanor.

SEC. 400. Any person who shall knowingly sell, or offer for sale or use, or expose, or who shall cause or procure to be sold or offered for sale, or used, or expose any horse, mule, or other animal having the disease known as glanders, or farcy, shall be guilty of a misdemeanor. [*New Section, approved April 16, 1880; Amendments 1880, 41 (Ban. ed. 376); took effect immediately.*

Such animals to be killed.

SEC. 401. Every animal having glanders, or farcy, shall at once be deprived of life by the owner or person having charge thereof, upon discovery or knowledge of its condition, and any such owner or person omitting or refusing to comply with the provisions of this section, shall be guilty of a misdemeanor. [*New Section, approved April 16, 1880; Amendments 1880, 41 (Ban. ed. 376); took effect immediately.*

CRIMES AGAINST THE PUBLIC PEACE.

13,415. *Disturbing the peace.*

SEC. 415. Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood or person, by loud or unusual noise, or by tumultuous or offensive conduct, or threatening, traducing, quarreling, challenging to fight, or fighting, or who, on the public streets of any unincorporated town, or upon the public highways in such unincorporated town, run any horse race, either for a wager or for amusement, or fire any gun or pistol in such unincorporated town, or use any vulgar, profane, or indecent language within the presence or hearing of women or children, in a loud and boisterous manner, is guilty of a misdemeanor, and upon conviction by any court of competent jurisdiction, shall be punished by fine not exceeding two hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both fine and imprisonment, or either, at the discretion of the court. [*Amendment, approved March 20, 1878; Amendments 1877-8, 117; took effect from passage.*

13,420.

[New Section 420, relating to the uttering of language with intent to incite a riot or acts of criminal violence against person or property, approved January 19, 1878 (Amendments 1877-8, 117), was repealed by act of February 7, 1880; Amendments 1880, 1 (Ban. ed. 4); took effect from passage.]

CRIMES AGAINST THE REVENUE.

13,424. *Embezzlement and falsification of accounts by public officers.*

SEC. 424. Each officer of this State, or of any county, city, town, or district of this State, and every other person charged with the receipt, safe keeping, transfer, or disbursement of public moneys, who either:

1. Without authority of law appropriates the same, or any portion thereof, to his own use, or to the use of another; or,

2. Loans the same, or any portion thereof, or having the possession or control of any public money, makes a profit out of, or uses the same for any purpose not authorized by law; or,

3. Fails to keep the same in his possession until disbursed or paid out by authority of law; or,

4. Unlawfully deposits the same, or any portion thereof, in any bank, or with any banker or other person; or,

5. Changes or converts any portion thereof from coin into currency, or from currency into coin, or other currency, without authority of law; or,

6. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,

7. Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or,

8. Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order, or warrant drawn upon such moneys by competent authority; or,

9. Willfully omits to transfer the same when such transfer is required by law; or,

10. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him under any duty imposed by law so to pay over the same;

Is punishable by imprisonment in the State prison for not less than one nor more than ten years, and is disqualified from holding any office in this State. [*Amendment, approved April 16, 1880; Amendments 1880, 39 (Ban. ed. 310); took effect immediately.*]

EMBEZZLEMENT.

13,504. *When officers of State or any association guilty of embezzlement.*

Sec. 504. Every officer of this State, or of any county, city, city and county, or other municipal corporation or subdivision thereof, and every deputy, clerk, or servant of any such officer, and every officer, director, trustee, clerk, servant, or agent of any association, society or corporation (public or private), who fraudulently appropriates to any use or purpose not in the due and lawful execution of his trust, any property which he has in his possession or under his control by virtue of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, is guilty of embezzlement. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 129); took effect immediately.*]

13,514. *Punishment for embezzlement.*

Sec. 514. Every person guilty of embezzlement is punishable in the manner prescribed for feloniously stealing property of the value of that embezzled; and where the property embezzled is an evidence of debt or right of action, the sum due upon it or secured to be paid by it, shall be taken as its value; provided, that if the embezzlement or defalcation be of the public funds of the United States, or of this State, or of any county, city and county, or municipality within this State, the offense is a felony, and shall be punishable by imprisonment in the State prison not less than one year nor more than ten years; and the person so convicted shall be ineligible thereafter to any office of honor, trust, or profit under this State. [*Amendment, approved April 6, 1880; Amendments 1880, 8 (Ban. ed. 129); took effect immediately.*]

FALSE PERSONATION AND CHEATS.

13,536. *False statement concerning prices of consignments—Misdemeanor.*

Sec. 536. Every commission merchant, broker, agent, factor, or consignee, who shall willfully and corruptly make, or cause to be made, to the principal

or consignor of such commission merchant, agent, broker, factor, or consignee, a false statement concerning the price obtained for, or the quality or quantity of any property consigned or intrusted to such commission merchant, agent, broker, factor, or consignee, for sale, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or by both such fine and imprisonment. [*New Section, approved April 15, 1880; Amendments 1880, 37 (Ban. ed. 223); took effect immediately.*]

MALICIOUS INJURIES.

13,592. *Taking water from canals, and obstructing same.*

SEC. 592. Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume, or reservoir, used for the purpose of holding or conveying water for manufacturing, agricultural, mining, or domestic uses, or who shall, without like authority, raise, lower, or otherwise disturb any gate or other appurtenance thereof used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed into any such canal, ditch, flume, or reservoir, any rubbish, filth, or obstruction to the free flow of the water, is guilty of a misdemeanor. [*New Section, approved April 1, 1878; Amendments 1877-8, 118; took effect sixtieth day after passage.*]

MALICIOUS MISCHIEF.

13,599.

[Sec. 599, prohibiting killing seals and sea lions within one mile of the Cliff House, in the City and County of San Francisco, was repealed by act of March 12, 1880; Amendments 1880, 5 (Ban. ed. 26); took effect from passage.]

13,602. *Malicious injuries to freehold.*

SEC. 602. Every person who willfully commits any trespass by either:

1. Cutting down, destroying, or injuring any kind of wood or timber stand- or growing upon the lands of another; or
2. Carrying away any kind of wood or timber lying on such lands; or
3. Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof; or
4. Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone; or
5. Digging, taking, or carrying away from any land in any of the cities of the State, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone; or
6. Putting up, affixing, fastening, printing, or painting upon any property belonging to the State, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto; or
7. Entering upon any lands owned by any other person or persons whereon oysters or other shell fish are planted or growing; or injuring, gathering, or carrying away any oysters or other shell fish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner

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or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands, is guilty of a misdemeanor. [*Amendment, approved March 30, 1878; Amendments 1877-8, 118; took effect from passage.*]

13,607. *Destroying or injuring bridges, dams, levees, etc.*

SEC. 607. Every person who willfully and maliciously cuts, breaks, injures, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed tide or marsh land, or to store or conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or willfully or maliciously makes, or causes to be made, any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same; or draws up, cuts, or injures any piles fixed in the ground for the purpose of securing any sea-bank, or sea-walls, or any dock, quay, or jetty, lock, or sea-wall; or who, between the first day of October and the fifteenth day of April, of each year, plows up or loosens the soil in the bed or on the sides of any natural watercourse or channel, without removing such soil, within twenty-four hours from such watercourse or channel; or who, between the fifteenth day of April and the first day of October of each year, shall plow up or loosen the soil in the bed or on the sides of such natural watercourse or channel, and shall not remove therefrom the soil so plowed up or loosened before the first day of October next thereafter, is guilty of a misdemeanor, and upon conviction, punishable by a fine not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding two years, or by both; provided, that nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any such watercourse or channel, for the purpose of mining. [*Amendment, approved April 12, 1880; Amendments 1880, 36 (Ban. ed. 203); took effect immediately.*]

13,619. *Disclosing contents of telegraphic message.*

SEC. 619. Every person who willfully discloses the contents of a telegraphic message, or any part thereof, addressed to another person, without the permission of such person, unless directed so to do by the lawful order of a court, is punishable by imprisonment in the State prison not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or by both fine and imprisonment. [*Amendment, approved April 15, 1880; Amendments 1880, 38 (Ban. ed. 224); took effect sixtieth day after passage.*]

PROTECTION OF GAME AND FISH.

13,626. *Destruction of game, etc., when prohibited.*

SEC. 626. Every person who, in any of the counties of this State, between the fifteenth day of March and the fifteenth day of September, in each year, hunts, pursues, takes, kills, or destroys quail, partridges, or grouse, or any kind of duck or rail, or marsh hens, is guilty of a misdemeanor. Every person who, in the State of California, between the first day of January and the first day of July, in each year, hunts, pursues, takes, kills, or destroys doves, is guilty of a misdemeanor. Every person who, at any time, takes, gathers, or destroys the

eggs of any mallard, wood, or summer duck, red-head, teal, gadwell, or gray duck, or any other species of wild duck, is guilty of a misdemeanor. Every person who shall have any of the aforesaid game, or any male deer or buck, or any female deer or doe, or any antelope, elk, or mountain sheep in his possession at a time when it is unlawful to kill the same, as provided by this section, or by section six hundred and twenty-eight of this Code, is guilty of a misdemeanor, and proof of the possession of any of the aforesaid game at a time when it is unlawful to kill the same within the county wherein the same is found, shall be prima facie evidence, in any prosecution for a violation for any of the provisions of this section, that the person or persons in whose possession the same is found, took, killed, or destroyed the same in the county wherein the same is found, during the period when it was unlawful to take, kill, or destroy the same. [*Amendment, approved April 16, 1880; Amendments 1880, 41 (Ban. ed. 378); took effect from passage.*]

13,628. Destruction of deer, etc., when prohibited.

Sec. 628. Every person who, between the first day of November in each year, and the first day of July of the following year, hunts, pursues, takes, kills, or destroys any male deer or buck, is guilty of a misdemeanor. Every person who shall, for the period of four years from and after the passage of this act, pursue, hunt, take; kill, or destroy any antelope, elk, or mountain sheep, or female deer or doe, shall be guilty of a misdemeanor. Every person who, after the passage of this act, shall kill any spotted fawn, shall be guilty of a misdemeanor. Every person who, after the passage of this act, shall take; kill, or destroy any of the animals mentioned in this section, at any time, unless the carcass of such animal is used or preserved by the person slaying it, or is sold for food, is guilty of a misdemeanor. [*Amendment, approved March 30, 1878; Amendments 1877-8, 120; took effect from passage.*]

An Act to prevent the destruction of deer on Monte Diablo, in Contra Costa County.

Approved March 28, 1878; 1877-8, 599.

Hunting or killing deer at Mount Diablo—Misdemeanor.

SECTION 1. Every person who shall hunt, pursue, kill, or destroy any male or female deer or fawn within three miles of the summit of Monte Diablo, in Contra Costa County, for the period of four years from the date of the passage of this act, is guilty of a misdemeanor.

Sec. 2. This act shall take effect immediately.

13,631. Taking quail, partridge, etc., with net, pound, etc.

Sec. 631. Any person or persons who shall, at any time, net, pound, weir, cage, or trap any quail, partridge, or grouse, or who shall take from any net, pound, weir, cage, or trap any quail, partridge, or grouse, and retain in his possession, or sell, or give away the same, is guilty of a misdemeanor. [*Amendment, approved April 16, 1880; Amendments 1880, 42 (Ban. ed. 379); took effect from passage.*]

13,633. Taking trout; when prohibited.

Sec. 633. Every person who takes, catches, or kills any speckled trout, brook, or salmon trout, or any variety of trout, between the first day of November and the first day of April in the following year, is guilty of a misdemeanor. [*Amendment, approved March 30, 1878; Amendments 1877-8, 120; took effect from passage.*]

13,634. Taking salmon, when prohibited.

Sec. 634. Every person who, between the first day of August and the fif-

teenth day of September of each year, takes or catches, buys, sells, or has in his possession, any fresh salmon, is guilty of a misdemeanor. Every person who shall set or draw, or shall assist in setting or drawing, any net or seine, for the purpose of taking or catching salmon, in any of the waters of this State, at any time between sunrise of each Saturday and twelve o'clock noon of the following Sunday, is guilty of a misdemeanor. Every person who, between the first day of April and the thirty-first day of December in each year, takes or catches, buys, sells, or has in his possession, any fresh shad, is guilty of a misdemeanor. Nothing in this chapter shall be so construed as to prohibit any person from catching fish with hook and line, at any time, in the tide waters of this State. [*Amendment, approved March 30, 1878; Amendments 1877-8, 120; took effect from passage.*]

13,636. Permanent contrivances for catching fish prohibited.

SEC. 636. Every person who shall set, use, or continue, or who shall assist in setting, using, or continuing any pound, weir, set net, trap, or other fixed or permanent contrivance for catching fish in the waters of any of the rivers, creeks, or sloughs of this State, are guilty of a misdemeanor. Every person who shall draw, or who shall assist in drawing, any net or seine for the purpose of taking fish in any of the waters of this State, the meshes of which are less than one and one fourth inches in size, is guilty of a misdemeanor; provided, that nets with a mesh of a smaller size may be used in the catching of shrimps. Every person who shall cast, extend, or set any seine or net of any kind, for the catching of fish, in any river, stream, or slough of this State, which shall extend more than one third across the width of said river, stream, or slough, at the time and place of such fishing, is guilty of a misdemeanor. Every person who, by seine or any other means, shall catch any fish so small as to be able to escape through a mesh of one and one half inches in size, or the young of fish of any species, but which, at the time of capture, are too small to be marketed, and who shall not return the same to the water immediately and alive, or who shall sell, or offer for sale, any such fish, fresh or dried, is guilty of a misdemeanor. Every person convicted of violation of any of the provisions of this chapter shall be punished by fine of not less than fifty dollars, and not more than three hundred dollars, or imprisoned in the county jail of the county where the offense was committed for not less than thirty days nor more than six months, or by both such fine and imprisonment. One half of all moneys collected for fines for violation of the provisions of this chapter shall be paid to informers, and one half thereof to the district attorney of the county in which the action is prosecuted; all other costs shall be a charge against the county in which the action is prosecuted. Nothing in this chapter shall be construed to prohibit the United States fish commissioners, or the fish commissioners of the State of California, from taking such fish as they shall deem necessary for the purpose of artificial hatching, nor at any time. All nets, seines, fishing tackle, boats, or other implements used in catching or taking fish in violation of the provisions of this chapter, shall be forfeited, and may be seized by the peace officer of the county, or assistant, or person acting under the authority of the fish commissioners, and may be by them destroyed, or may be sold at public auction by the party making such seizure, upon notice posted in said county for five days. The person making such seizure and sale shall be entitled to retain one half of the proceeds of such sale, and the balance shall be paid into the school fund of the county, in case the seizure and sale is made by a peace officer thereof, or to the fish commissioners, if made by a per-

son appointed by them; provided, that all nets having meshes of less than one and a half inches in size, when seized under the provisions of this section, must be destroyed. [*Amendment, approved March 30, 1878; Amendments 1877-8, 120; took effect from passage.*]

13,637.

An Act to prohibit the destruction of fish in Alameda County.

Approved March 28, 1878; 1877-8, 598.

Catching fish in Lake Chabot.

SECTION 1. It shall not be lawful for any person to catch, take, or destroy any fish of any kind in the body of water known as Lake Chabot, in the San Leandro Creek, in Alameda County, belonging to the Contra Costa Water Company, without permission of the owner or owners thereof.

Catching fish in San Leandro Creek.

SEC. 2. It shall not be lawful to take, kill, or destroy any brook or speckled trout, salmon, or salmon trout, or any other species of fish in San Leandro Creek and its branches or tributaries, or in any of the streams or water-courses of said county, between the first day of October of each year and the first day of April of the following year.

Misdemeanor.

SEC. 3. Any person violating the provisions of this act shall be guilty of a misdemeanor.

SEC. 4. This act shall take effect and be in force from and after its passage.

An Act to prevent the destruction of fish in King's River.

Approved March 28, 1878; 1877-8, 601.

Passage of fish through ditches prevented, how.

SECTION 1. The proprietors of all water ditches and flumes, drawing their supply from the waters of King's River, shall place and keep in good repair at the heads of their respective ditches or flumes, through which all the water from the river entering the ditch or flume shall pass, strips of wood or other material, the meshes between which shall not exceed one inch in width, for the prevention of the passage of fish from the river into the flumes or ditches. Any person taking water from King's River in violation of the provisions of this act, is guilty of a misdemeanor.

An Act of the preservation of fish in the waters of Lake Bigler.

Approved March 30, 1878; 1877-8, 746.

Catching fish, except by hook and line, in Lake Bigler.

SECTION 1. It shall not be lawful for any person or persons to catch or kill any fish in the waters of Lake Bigler, or in any stream leading into or from said Lake Bigler, with any seine, gill-net, spear, wire fence, basket, trap-set net, or dam, or any poisonous, deleterious, or stupefying drug, or explosive compound, or any other implement or appliance, except by means of a hook and line.

Penalty.

SEC. 2. Any person or persons who shall violate any provision of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace, in Placer County, El Dorado County, or Nevada County, shall be punished by a fine of not less than one hundred dollars nor more than five hundred, or by imprisonment in the county jail not less than thirty days nor more than four months, or by both such fine and imprison-

ment, in the discretion of the court, for each and every offense, besides the cost of prosecution.

Fines, how paid.

SEC. 3. The district attorney, or his deputy, of El Dorado County, or of Placer County, or of Nevada County, whichever the informer may notify as within the district attorney's jurisdiction, shall prosecute such suits, and, upon conviction, all fines, damages, and penalties that may be awarded or collected under this act, shall be paid one half to the district attorney and one-half to the informer, share and share alike; and it is hereby made the duty of the district attorney, or his appointed deputy, of the Counties of Placer, El Dorado, and Nevada, to prosecute all cases arising under this act.

SEC. 4. All acts, and provisions of any act or parts of acts, conflicting with this act, are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

An Act for the protection of certain kinds of fish.

Approved April 16, 1880; 1880, 106 (Ban. ed. 345).

Catching of catfish except by hook and line.

SECTION 1. From and after the passage of this act, and until the first day of July, A. D. eighteen hundred and eighty-two, it shall be unlawful for any person to catch any catfish in any of the public waters of this State, except by means of a hook and line.

Misdemeanor.

SEC. 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be punished as follows: For the first offense, by a fine of not less than fifty dollars, or imprisonment in the county jail for not less than fifty days, or both such fine and imprisonment; for the second, and each subsequent offense, by a fine of not less than two hundred and fifty dollars, or by imprisonment in county jail for a period of not less than two hundred and fifty days, or both such fine and imprisonment.

Information leading to conviction.

SEC. 3. Any person giving information which leads to the conviction of any person or persons for violating the provisions of this act shall, upon the conviction of such person or persons, be entitled to receive one half of the fine imposed upon such person or persons.

SEC. 4. This act shall be in force and take effect from and after its passage.

An Act to provide for the construction, maintenance, and regulation of fishways in streams naturally frequented by salmon, shad, and other migratory fish.

Approved April 16, 1880; 1880, 121 (Ban. ed. 387).

[This act, which prescribes the duties of the fish commissioners as to fishways, etc., also makes it a misdemeanor to injure or destroy such fishways, or take fish except by hook and line within three hundred feet of such fishways, is given in full, ante, 643.]

An Act relating to fishing in the waters of this State.

Approved April 23, 1880; 1880, 123 (Ban. ed. 388).

Aliens not allowed to fish in waters of State.

SECTION 1. All aliens incapable of becoming electors of this State are hereby prohibited from fishing, or taking any fish, lobster, shrimps, or shell fish of any kind, for the purpose of selling, or giving to another person to sell. Every violation of the provisions of this act shall be a misdemeanor, punishable

upon conviction by a fine of not less than twenty-five dollars, or by imprisonment in the county jail for a period of not less than thirty days.

SEC. 2. This act shall take effect and be in force from and after its passage.

CRIMINAL PROCEDURE.

13,682. *Public offenses, how prosecuted.*

SEC. 682. Every public offense must be prosecuted by indictment or information, except:

1. Where proceedings are had for the removal of civil officers of the State;
2. Offenses arising in the militia when in actual service, and in the land and naval forces in time of war, or which the State may keep, with the consent of congress, in time of peace;
3. Offenses tried in justices' and police courts. [*Amendment, approved April 9, 1880; Amendments 1880, 10 (Ban. ed. 155) took effect immediately.*]

13,689. *No person to be convicted but upon verdict or judgment.*

SEC. 689. No person can be convicted of a public offense unless by the verdict of a jury, accepted and recorded by the court, or upon a plea of guilty, or upon judgment against him upon a demurrer in the case mentioned in section one thousand and eleven, or upon a judgment of a court, a jury having been waived in a criminal case not amounting to felony. [*Amendment, approved April 25, 1880; Amendments 1880, 4 (Ban. ed. 9); took effect immediately.*]

13,712. *Undertaking, when and how prosecuted.*

SEC. 712. Upon the district attorney's producing evidence of such conviction to the superior court of the county, the court must order the undertaking to be prosecuted, and the district attorney must thereupon commence an action upon it in the name of the people of this State. [*Amendment, approved April 12, 1880; Amendments 1880, 31 (Ban. ed. 198); took effect immediately.*]

13,728. *Officers who may order out the military.*

SEC. 728. When there is an unlawful or riotous assembly with the intent to commit a felony, or to offer violence to person or property, or to resist by force the laws of the State, or of the United States, and the fact is made known to the governor, by any justice of the supreme court, or the judge of the superior court, or sheriff of the county, or the mayor or chief of police of a city, or the president of the board of supervisors of the Cities and Counties of Sacramento and San Francisco, the governor may issue an order directed to the commanding officer of a division or brigade of the organized national guard, or enrolled militia of the State, to order his command, or such part thereof as may be necessary, into active service, and to appear at a time and place therein specified to aid the civil authorities in suppressing violence and enforcing the laws. [*Amendment, approved April 12, 1880; Amendments 1880, 32 (Ban. ed. 198); took effect immediately.*]

13,732. *Governor may in certain cases declare a county in a state of insurrection.*

SEC. 732. When the governor is satisfied that the execution of civil or criminal process has been forcibly resisted in any county by bodies of men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted and has not been sufficient to enable the officers having the process to execute it, he may, on the application of the officer, or of the district attorney, or judge of a superior court of the county, by proclamation, published in such papers as he may direct, declare the county to be in a state of insurrection, and may order into the service

13,732-13,771 AMENDMENTS TO THE PENAL CODE.

of the State such number and description of the organized national guard, or volunteer uniformed companies, or other militia of the State, as he deems necessary, to serve for such term and under the command of such officer as he may direct. [*Amendment, approved April 12, 1880; Amendments 1880, 32 (Ban. ed. 198); took effect immediately.*]

IMPEACHMENTS.

13,737. *Officers liable to impeachment.*

Sec. 737. The governor, lieutenant-governor, secretary of State, controller, treasurer, attorney-general, surveyor-general, chief justice, associate justices of the supreme court, and judges of the superior courts, are liable to impeachment for any misdemeanor in office. [*Amendment, approved February 18, 1880; Amendments 1880, 3 (Ban. ed. 7); took effect immediately.*]

13,746. *Two thirds necessary to a conviction.*

Sec. 746. The defendant can not be convicted on impeachment without the concurrence of two thirds of the members elected, voting by ayes and noes, and if two thirds of the members elected do not concur in a conviction, he must be acquitted. [*Amendment, approved February 18, 1880; Amendments 1880, 3 (Ban. ed. 7); took effect immediately.*]

13,749. *Nature of the judgment.*

Sec. 749. The judgment may be that the defendant be suspended, or that he be removed from office and disqualified to hold any office of honor, trust, or profit under the State. [*Amendment, approved February 18, 1880; Amendments 1880, 3 (Ban. ed. 8); took effect immediately.*]

13,753. *Impeachment not a bar to indictment.*

Sec. 753. If the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, the indictment or information is not barred thereby. [*Amendment, approved February 18, 1880; Amendments 1880, 3 (Ban. ed. 8); took effect immediately.*]

REMOVAL OF OFFICERS OTHERWISE THAN BY IMPEACHMENT.

13,760. *Accusation of impeachment to be transmitted to district attorney, and copy served on defendant.*

Sec. 760. The accusation must be delivered by the foreman of the grand jury to the district attorney of the county, except when he is the officer accused, who must cause a copy thereof to be served upon the defendant, and require, by notice in writing of not less than ten days, that he appear before the superior court of the county, at a time mentioned in the notice, and answer the accusation. The original accusation must then be filed with the clerk of the court. [*Amendment, approved April 12, 1880; Amendments 1880, 32 (Ban. ed. 199); took effect immediately.*]

13,771. *Proceedings for removal of district attorney.*

Sec. 771. The same proceedings may be had on like grounds for the removal of a district attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by him to a judge of the superior court of the county, who must thereupon appoint some one to act as prosecuting officer in the matter, or place the accusation in the hands of the district attorney of an adjoining county, and require him to conduct the proceedings. [*Amendment, approved April 12, 1880; Amendments 1880, 32 (Ban. ed. 199); took effect immediately.*]

13,772. Removal of public officers by summary proceedings before superior courts.

SEC. 772. When an accusation in writing, verified by the oath of any person, is presented to a superior court, alleging that any officer within the jurisdiction of the court has been guilty of charging and collecting illegal fees for services rendered, or to be rendered, in his office, or has refused or neglected to perform the official duties pertaining to his office, the court must cite the party charged to appear before the court at a time not more than ten nor less than five days from the time the accusation was presented, and on that day, or some other subsequent day not more than twenty days from that on which the accusation was presented, must proceed to hear, in a summary manner, the accusation, and evidence offered in support of the same, and the answer and evidence offered by the party accused; and if, on such hearing, it appears that the charge is sustained, the court must enter a decree that the party accused be deprived of his office, and must enter a judgment for five hundred dollars in favor of the informer, and such costs as are allowed in civil cases. [*Amendment, approved April 12, 1880; Amendments 1880, 33 (Ban. ed. 199); took effect immediately.*]

LOCAL JURISDICTION OF PUBLIC OFFENSES.**13,784. Jurisdiction of criminal action.**

SEC. 784. The jurisdiction of a criminal action:

1. For forcibly and without lawful authority seizing and confining another, or inveigling or kidnaping him, with intent, against his will, to cause him to be secretly confined or imprisoned in this State, or to be sent out of the State, or from one county to another, or to be sold as a slave, or in any way held to service; or,

2. For decoying, taking, or enticing away a child under the age of twelve years, with intent to detain and conceal it from its parent, guardian, or other person having the lawful charge of the child; or,

3. For inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of twenty-five years, for the purpose of prostitution; or,

4. For taking away any female, under the age of sixteen years, from her father, mother, guardian, or other person having the legal charge of her person, without their consent, either for the purpose of concubinage or prostitution;

Is in the county in which the offense is committed, or out of which the person upon whom the offense was committed may, in the commission of the offense, have been brought, or in which an act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense, or in abetting the parties concerned therein. [*Amendment, approved April 9, 1880; Amendments 1880, 11 (Ban. ed. 156); took effect immediately.*]

13,787. Jurisdiction of criminal action for escaping from prison.

SEC. 787. The jurisdiction of a criminal action for escaping from prison is in any county of the State. [*Amendment, approved April 9, 1880; Amendments 1880, 11 (Ban. ed. 156); took effect immediately.*]

13,788. Jurisdiction of criminal action for treason committed out of State.

SEC. 788. The jurisdiction of a criminal action for treason, when the overt act is committed out of the State, is in any county of the State. [*Amendment, approved April 9, 1880; Amendments 1880, 11 (Ban. ed. 156); took effect immediately.*]

13,789-13,809 AMENDMENTS TO THE PENAL CODE.

13,789. *Jurisdiction of criminal action for stealing, etc., property out of State and bringing it therein.*

SEC. 789. The jurisdiction of a criminal action for stealing in any other State the property of another, or receiving it, knowing it to have been stolen, and bringing the same into this State, is in any county into or through which such stolen property has been brought. [Amendment, approved April 9, 1880; Amendments 1880, 11 (Ban. ed. 157); took effect immediately.

13,790. *Jurisdiction of criminal action for murder etc., where injury inflicted in one county and party dies out of that county.*

SEC. 790. The jurisdiction of a criminal action for murder or manslaughter, when the injury which caused the death was inflicted in one county, and the party injured dies in another county or out of the State, is in the county where the injury was inflicted. [Amendment, approved April 9, 1880; Amendments 1880, 11 (Ban. ed. 157); took effect immediately.

13,792. *Jurisdiction in cases of principals who are not present, etc., at commission of principal offense.*

SEC. 792. The jurisdiction of a criminal action against a principal in the commission of a public offense, when such principal is not present at the commission of the principal offense, is in the same county it would be under this Code if he were so present and aiding and abetting therein. [Amendment approved April 9, 1880; Amendments 1880, 11 (Ban. ed. 157); took effect immediately.

TIME OF COMMENCING CRIMINAL ACTIONS.

13,800. *Limitation of three years in all other felonies.*

SEC. 800. An indictment for any other felony than murder must be found or an information filed within three years after its commission. [Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 157); took effect immediately.

13,801. *Limitation of one year in misdemeanors.*

SEC. 801. An indictment for any misdemeanor must be found or an information filed within one year after its commission. [Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 157); took effect immediately.

13,802. *Exception when defendant is out of the State.*

SEC. 802. If, when the offense is committed, the defendant is out of the State, the indictment may be found or an information filed within the term herein limited after his coming within the State, and no time during which the defendant is not an inhabitant of, or usually resident within this State, is part of the limitation. [Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 157); took effect immediately.

COMPLAINT.

13,806. *Complaint defined.*

SEC. 806. The complaint is the allegation in writing made to a court or magistrate that a person has been guilty of some designated offense. [Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 157); took effect immediately.

13,809. *Filing information after examination and commitment.*

SEC. 809. When a defendant has been examined and committed, as provided in section eight hundred and seventy-two of this Code, it shall be the duty of the district attorney, within thirty days thereafter, to file in the superior court of the county in which the offense is triable an information charging the defend-

ant with such offense. The information shall be in the name of the people of the State of California, and subscribed by the district attorney, and shall be in form like an indictment for the same offense. [*New Section, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 157); took effect immediately.*]

WARRANT OF ARREST.

13,818. *To what peace officers warrants are to be directed.*

SEC. 818. If a warrant is issued by a justice of the supreme court, or judge of a superior court, it may be directed generally to any sheriff, constable, marshal, or policeman in the State, and may be executed by any of those officers to whom it may be delivered. [*Amendment, approved April 12, 1880; Amendments 1880, 33 (Ban. ed. 199); took effect immediately.*]

13,820. *Indorsement on warrant for service in another county, how and upon what proof to be made.*

SEC. 820. The indorsement mentioned in the last section can not, however, be made unless the warrant of arrest be accompanied with a certificate of the clerk of the county where such warrant was issued, under the seal of the superior court thereof, as to the official character of the magistrate, or, unless upon the oath of a credible witness, in writing, indorsed on or annexed to the warrant, proving the handwriting of the magistrate by whom it was issued. Upon such proof, the magistrate indorsing the warrant is exempted from liability to a civil or criminal action, though it afterwards appear that the warrant was illegally or improperly issued. [*Amendment, approved April 12, 1880; Amendments 1880, 33 (Ban. ed. 199); took effect immediately.*]

13,825. *No delay in taking defendant before magistrate.*

SEC. 825. The defendant must in all cases be taken before the magistrate without unnecessary delay, and any attorney at law entitled to practice in courts of record of California, may, at the request of the prisoner after such arrest, visit the person so arrested. [*Amendment, approved April 9, 1880; Amendments 1880, 30 (Ban. ed. 186); took effect from passage.*]

13,850. *Arrest by telegraph.*

SEC. 850. A justice of the supreme court, or a judge of a superior court, may, by an indorsement under his hand upon a warrant of arrest, authorize the service thereof by telegraph, and thereafter a telegraphic copy of such warrant may be sent by telegraph to one or more peace officers, and such copy is as effectual in the hands of any officer, and he must proceed in the same manner under it as though he held an original warrant issued by the magistrate making the indorsement. [*Amendment, April 12, 1880; Amendments 1880, 33 (Ban. ed. 200); took effect immediately.*]

EXAMINATION AND HOLDING TO ANSWER.

13,869. *Testimony, how taken and authenticated.*

SEC. 869. The testimony given by each witness in cases of homicide must be reduced to writing, as a deposition, by the magistrate, or under his direction, and in other cases upon the demand of the prosecuting attorney, or of the defendant or his counsel, and authenticated in the following form:

First—It must state the name of the witness, his place of residence, and his business or profession.

Second—It must contain the questions put to the witness, and his answers thereto, each answer being distinctly read to him as it is taken down, and being corrected or added to until it conforms to what he declares is the truth.

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Third—If a question put be objected to on either side and overruled, or the witness declines answering it, that fact, with the ground on which the question was overruled or the answer declined, must be stated.

Fourth—The deposition must be signed by the witness, or if he refuses to sign it, his reason for refusing must be stated in writing as he gives it.

Fifth—It must be signed and certified by the magistrate. [*Amendment, approved April 9, 1880; Amendments 1880, 30 (Ban. ed. 187); took effect immediately.*]

• 13,872. *When and how to be committed for public offense.*

SEC. 872. If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe the defendant guilty thereof, the magistrate must make or indorse on the deposition an order, signed by him, to the following effect: It appearing to me that the offense in the within depositions mentioned (or any offense according to the facts, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe the within named A. B. guilty thereof, I order that he be held to answer to the same, and committed to the sheriff of the County of ——. [*Amendment, approved April 15, 1880; Amendments 1880, 37 (Ban. ed. 210); took effect immediately.*]

13,874.

[Sec. 874, relating to a certificate of bail being taken, was repealed by act of April 15, 1880; Amendments 1880, 37 (Ban. ed. 211); took effect immediately.]

13,875. *Order for bail on commitment.*

SEC. 875. If the offense is bailable, and the defendant is admitted to bail, the following words must be added to the order, “and that he be admitted to bail in the sum of — dollars, and is committed to the sheriff of the County of — until he gives such bail.” [*Amendment, approved April 15, 1880; Amendments 1880, 37 (Ban. ed. 211); took effect immediately.*]

13,882. *Witness unable to give security may be conditionally examined.*

SEC. 882. When, however, it satisfactorily appears by examination, on oath of the witness, or any other person, that the witness is unable to procure sureties, he may be forthwith conditionally examined on behalf of the people. Such examination must be by question and answer, in the presence of the defendant, or after notice to him, if on bail, and conducted in the same manner as the examination before a committing magistrate is required by this Code to be conducted, and the witness thereupon be discharged; but this section does not apply to an accomplice in the commission of the offense charged. [*Amendment, approved March 14, 1878; Amendments 1877-8, 122; took effect from passage.*]

PROCEEDINGS AFTER COMMITMENT.

13,888. *What prosecutions must be by indictment.*

SEC. 888. All public offenses triable in the superior courts must be prosecuted by indictment or information, except as provided in the next section. [*Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 157); took effect immediately.*]

13,890. *Indictments, informations, and accusations, in what court found.*

SEC. 890. All accusations, informations, or indictments against district, county, municipal, and township officers, must be found or filed in the superior court. [*Amendment, approved April 12, 1880; Amendments 1880, 34 (Ban. ed. 200); took effect immediately.*]

POWERS AND DUTIES OF GRAND JURY.

13,928. *Duties of grand jury as to examining official books, records, and accounts.*

SEC. 928. It shall be the duty of the grand jury annually to make a careful and complete examination of the books, records, and accounts of all the officers of the county, and especially those pertaining to the revenue, and report thereon, and if, in their judgment, the services of an expert are necessary, they shall have power to employ one at an agreed compensation not to exceed five dollars per day, payable as other county charges. The judge, upon the impanelment of such grand jury, shall charge them specially as to their duties under this section. [*New Section, approved April 16, 1880; Amendments 1880, 43 (Ban. ed. 380); took effect immediately.*]

PRESENTMENT AND PROCEEDINGS THEREON.

13,935. *Form of bench warrant.*

SEC. 935. The bench warrant, upon presentment, must be substantially in the following form: County of ——. The People of the State of California to any sheriff, constable, marshal, or policeman in this State: A presentment having been made on the — day of —, eighteen —, to the superior court of the County of —, charging C. D. with the crime of — (designating it generally), you are therefore commanded forthwith to arrest the above named C. D., and to take him before E. F., a magistrate of this county; or in case of his absence or inability to act, before the nearest and most accessible magistrate in this county. Given under my hand, with the seal of said court affixed, this — day of —, A. D. eighteen —. By order of the court. [Seal.] G. H., Clerk. [*Amendment, approved April 12, 1880; Amendments 1880, 34 (Ban. ed. 200); took effect immediately.*]

PLEADING BY INDICTMENT OR INFORMATION.

13,949. *First pleading by the people is indictment or information.*

SEC. 949. The first pleading on the part of the people is the indictment or information. [*Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 158); took effect immediately.*]

13,950. *Indictment or information, what must contain.*

SEC. 950. The indictment or information must contain:

1. The title of the action, specifying the name of the court to which the same is presented, and the names of the parties;
2. A statement of the acts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended. [*Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 158); took effect immediately.*]

13,951. *Form of indictment.*

SEC. 951. It may be substantially in the following form: The People of the State of California against A. B., in the superior court of the County of —, the — day of —, A. D. eighteen —. A. B. is accused by the grand jury of the County of —, by this indictment (or by the district attorney by this information), of the crime of (giving its legal appellation, such as murder, arson, or the like, or designating it as felony or misdemeanor), committed as follows: The said A. B., on the — day of —, A. D. eighteen —, at the County of — (here set forth the act or omission charged as an offense), contrary to the form, force, and effect of the statute in such case made and

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provided, and against the peace and dignity of the people of the State of California. [*Amendment, approved April 9, 1880; Amendments 1880, 12 (Ban. ed. 158); took effect immediately.*]

13,953. *When defendant is indicted by fictitious name, etc.*

SEC. 953. When a defendant is charged by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it must be inserted in the subsequent proceedings, referring to the fact of his being charged by the name mentioned in the indictment or information. [*Amendment, approved April 9, 1880; Amendments 1880, 13 (Ban. ed. 158); took effect immediately.*]

13,954. *What indictment or information must charge.*

SEC. 954. The indictment or information must charge but one offense, but the same offense may be set forth in different forms under different counts, and when the offense may be committed by the use of different means, the means may be alleged in the alternative in the same count. [*Amendment, approved April 9, 1880; Amendments 1880, 13 (Ban. ed. 158); took effect immediately.*]

13,955. *Statement as to time when offense was committed.*

SEC. 955. The precise time at which the offense was committed need not be stated in the indictment or information, but it may be alleged to have been committed at any time before the finding or filing thereof, except where the time is a material ingredient in the offense. [*Amendment, approved April 9, 1880; Amendments 1880, 13 (Ban. ed. 158); took effect immediately.*]

13,957. *Construction of words used in indictment or information.*

SEC. 957. The words used in an indictment or information are construed in their usual acceptance in common language, except such words and phrases as are defined by law, which are construed according to their legal meaning. [*Amendment, approved April 9, 1880; Amendments 1880, 13 (Ban. ed. 159); took effect immediately.*]

13,958. *Words used in a statute need not be strictly pursued.*

SEC. 958. Words used in a statute to define a public offense need not be strictly pursued in the indictment or information, but other words conveying the same meaning may be used. [*Amendment, approved April 9, 1880; Amendments 1880, 13 (Ban. ed. 159); took effect immediately.*]

13,959. *Indictment or information, when sufficient.*

SEC. 959. The indictment or information is sufficient if it can be understood therefrom:

1. That it is entitled in a court having authority to receive it, though the name of the court be not stated.

2. If an indictment that it was found by a grand jury of the county in which the court was held, or if an information that it was subscribed and presented to the court by the district attorney of the county in which the court was held.

3. That the defendant is named, or, if his name can not be discovered, that he is described by a fictitious name, with a statement that his true name is to the jury or district attorney, as the case may be, unknown.

4. That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county, is triable therein.

5. That the offense was committed at some time prior to the time of finding the indictment or filing of the information.

6. That the act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended.

7. That the act or omission charged as the offense is stated with such a degree of certainty as to enable the court to pronounce judgment upon a conviction, according to the right of the case. [*Amendment, approved April 9, 1880; Amendments 1880, 13 (Ban. ed. 159); took effect immediately.*]

13,960. *Indictment, etc., when not insufficient.*

SEC. 960. No indictment or information is insufficient, nor can the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form which does not tend to the prejudice of a substantial right of the defendant upon its merits. [*Amendment, approved April 9, 1880; Amendments 1880, 14 (Ban. ed. 159); took effect immediately.*]

13,961. *Presumptions of law, etc., need not be stated.*

SEC. 961. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an indictment or information. [*Amendment, approved April 9, 1880; Amendments 1880, 14 (Ban. ed. 160); took effect immediately.*]

13,964. *Pleading in indictment for libel.*

SEC. 964. An indictment or information for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libeled of the defamatory matter on which the indictment or information is founded; but it is sufficient to state generally that the same was published concerning him, and the fact that it was so published must be established on the trial. [*Amendment, approved April 9, 1880; Amendments 1880, 14 (Ban. ed. 160); took effect immediately.*]

13,965. *Pleading in indictment or information for forgery, where instrument destroyed or withheld by defendant.*

SEC. 965. When an instrument which is the subject of an indictment or information for forgery has been destroyed or withheld by the act or the procurement of the defendant, and the fact of such destruction or withholding is alleged in the indictment, or information, and established on the trial, the misdescription of the instrument is immaterial. [*Amendment, approved April 9, 1880; Amendments 1880, 14 (Ban. ed. 160); took effect immediately.*]

13,966. *Pleading in an indictment or information for perjury or subornation of perjury.*

SEC. 966. In an indictment or information for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the offense was committed, and in what court and before whom the oath alleged to be false was taken, and that the court, or the person before whom it was taken, had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment or information need not set forth the pleadings, record, or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed. [*Amendment, approved April 9, 1880; Amendments 1880, 14 (Ban. ed. 160); took effect immediately.*]

13,967. *Pleading in indictment or information for larceny or embezzlement.*

SEC. 967. In an indictment or information for the larceny or embezzlement of money, bank notes, certificates of stock, or valuable securities, or for a conspiracy to cheat or defraud a person of any such property, it is sufficient to

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allege the larceny or embezzlement, or the conspiracy to cheat and defraud, to be of money, bank notes, certificates of stock, or valuable securities, without specifying the coin, number, denomination, or kind thereof. [*Amendment, approved April 9, 1880; Amendments 1880, 15 (Ban. ed. 160); took effect immediately.*]

13,968. *Pleading in indictment or information for selling, etc., lewd and obscene books.*

SEC. 968. An indictment or information for exhibiting, publishing, passing, selling, or offering to sell, or having in possession, with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper, or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper, or writing; but it is sufficient to state generally the fact of the lewdness or obscenity thereof. [*Amendment, approved April 9, 1880; Amendments 1880, 15 (Ban. ed. 160); took effect immediately.*]

13,969.

[Sec. 969, relating to previous conviction of another offense, was repealed by act of April 9, 1880; Amendments 1880, 15 (Ban. ed. 161); took effect immediately.]

13,970. *Indictment against several, one or more may be acquitted.*

SEC. 970. Upon an indictment or information against several defendants, any one or more may be convicted or acquitted. [*Amendment, approved April 9, 1880; Amendments 1880, 15 (Ban. ed. 161); took effect immediately.*]

13,971. *Distinction between accessory before the fact and principal abrogated.*

SEC. 971. The distinction between an accessory before the fact and a principal, and principals in the first and second degree, in cases of felony, is abrogated; and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, shall hereafter be prosecuted, tried, and punished as principals, and no other facts need be alleged in any indictment or information against such an accessory than are required in an indictment or information against his principal. [*Amendment, approved April 9, 1880; Amendments 1880, 15 (Ban. ed. 161); took effect immediately.*]

13,972. *Accessory may be indicted and tried though principal has not been.*

SEC. 972. An accessory to the commission of a felony may be prosecuted, tried, and punished, though the principal may be neither prosecuted nor tried, and though the principal may have been acquitted. [*Amendment, approved April 9, 1880; Amendments 1880, 15 (Ban. ed. 161); took effect immediately.*]

PLEADINGS AFTER INDICTMENT OR INFORMATION.

13,976. *Defendant must be arraigned in court where indictment or information was found.*

SEC. 976. When the indictment or information is filed the defendant must be arraigned thereon before the court in which it is filed, unless the cause is transferred to some other county for trial. [*Amendment, approved April 9, 1880; Amendments 1880, 15 (Ban. ed. 161); took effect immediately.*]

13,977. *Defendant, when to be present at arraignment.*

SEC. 977. If the indictment or information be for a felony, the defendant must be personally present; but if for a misdemeanor, he may appear upon the arraignment by counsel. [*Amendment, approved April 9, 1880; Amendments 1880, 16 (Ban. ed. 161); took effect immediately.*]

13,981. *Form of bench warrant.*

Sec. 981. The bench warrant upon the indictment or information must, if the offense is a felony, be substantially in the following form: County of _____. The people of the State of California to any sheriff, constable, marshal, or policeman in this State: An indictment having been found (or information filed) on the ____ day of ____, A. D. eighteen ____, in the superior court of the County of ____, charging C. D. with the crime of ____ (designating it generally); you are, therefore, commanded forthwith to arrest the above named C. D., and bring him before that court (or if the indictment and information has been sent to another court, then before that court, naming it), to answer said indictment (or information), or if the court be not in session, that you deliver him into the custody of the sheriff of the County of ____.

Given under my hand, with the seal of said court affixed, this ____ day of ____,
A. D. ____.

By order of said court.

[SEAL.]

E. F., Clerk.

[Amendment, approved April 9, 1880; Amendments 1880, 16 (Ban. ed. 161); took effect immediately.]

13,982. *Directions in the bench warrant if the offense is bailable.*

Sec. 982. The defendant, when arrested under a warrant for an offense not bailable, must be held in custody by the sheriff of the county in which the indictment is found or information filed, unless admitted to bail after an examination upon a writ of habeas corpus; but if the offense is bailable, there must be added to the body of the bench warrant a direction to the following effect: "Or, if he requires it, that you take him before any magistrate in that county, or in the county in which you arrest him, that he may give bail to answer to the indictment (or information);" and the court, upon directing it to issue, must fix the amount of bail, and an indorsement must be made thereon and signed by the clerk, to the following effect: "The defendant is to be admitted to bail in the sum of ____ dollars." [Amendment, approved April 9, 1880; Amendments 1880, 16 (Ban. ed. 162); took effect immediately.]

13,985. *Ordering defendant into custody or increasing bail when indictment is for felony.*

Sec. 985. When the information or indictment is for a felony, and the defendant, before the filing thereof, has given bail for his appearance to answer the charge, the court to which the indictment or information is presented, or in which it is pending, may order the defendant to be committed to actual custody, unless he gives bail in an increased amount, to be specified in the order. [Amendment, approved April 9, 1880; Amendments 1880, 16 (Ban. ed. 162); took effect immediately.]

13,988. *Arraignment, how made.*

Sec. 988. The arraignment must be made by the court, or by the clerk or district attorney under its direction, and consists in reading the indictment or information to the defendant and delivering to him a copy thereof, and of the indorsements thereon, including the list of witnesses, and asking him whether he pleads guilty or not guilty to the indictment or information. [Amendment, approved April 9, 1880; Amendments 1880, 16 (Ban. ed. 162); took effect immediately.]

13,989. *Proceedings on arraignment when defendant is not indicted by his true name.*

Sec. 989. When the defendant is arraigned, he must be informed that if the

name by which he is prosecuted is not his true name, he must then declare his true name, or be proceeded against by the name in the indictment or information. If he gives no other name, the court may proceed accordingly; but if he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the information or indictment may be had against him by that name, referring also to the name by which he was first charged therein. [*Amendment, approved April 9, 1880; Amendments 1880, 17 (Ban. ed. 162); took effect immediately.*]

13,990. *Time allowed and how defendant may answer on arraignment.*

SEC. 990. If, on the arraignment, the defendant requires it, he must be allowed a reasonable time, not less than one day, to answer the indictment or information. He may, in answer to the arraignment, move to set aside, demur, or plead to the indictment or information. [*Amendment, approved April 9, 1880; Amendments 1880, 17 (Ban. ed. 163); took effect immediately.*]

SETTING ASIDE INDICTMENT OR INFORMATION.

13,995. *Indictment or information, when set aside on motion.*

SEC. 995. The indictment or information must be set aside by the court in which the defendant is arraigned, upon his motion, in either of the following cases. If it be an indictment:

1. Where it is not found, indorsed, and presented as prescribed in this Code.
2. When the names of the witnesses examined before the grand jury, or whose depositions may have been read before them, are not inserted at the foot of the indictment, or indorsed thereon.
3. When a person is permitted to be present during the session of the grand jury; and when the charge embraced in the indictment is under consideration, except as provided in section nine hundred and twenty-five.
4. When the defendant had not been held to answer before the finding of the indictment, on any ground which would have been good ground for challenge, either to the panel or to any individual grand juror.

If it be on information:

1. That before the filing thereof the defendant had not been legally committed by a magistrate.
2. That it was not subscribed by the district attorney of the county. [*Amendment, approved April 26, 1880; Amendments 1880, 43 (Ban. ed. 521); took effect from passage.*]

13,996. *Defendant waives objections unless he makes the motion.*

SEC. 996. If the motion to set aside the indictment or information is not made, the defendant is precluded from afterwards taking the objections mentioned in the last section. [*Amendment, approved April 9, 1880; Amendments 1880, 17 (Ban. ed. 163); took effect immediately.*]

13,997. *Motion when heard—If denied or granted what proceedings are to be had.*

SEC. 997. The motion must be heard at the time it is made, unless for cause the court postpones the hearing to another time. If the motion is denied, the defendant must immediately answer the indictment or information, either by demurring or pleading thereto. If the motion is granted, the court must order that the defendant, if in custody, be discharged therefrom; or, if admitted to bail, that his bail be exonerated; or, if he has deposited money instead of bail, that the same be refunded to him, unless it directs that the case be resubmitted to the same or another grand jury, or that an information be

filed by the district attorney; provided, that after such order of resubmission the defendant may be examined before a magistrate, and discharged or committed by him, as in other cases, if before indictment or information filed he has not been examined and committed by a magistrate. [*Amendment, approved April 9, 1880; Amendments 1880, 17 (Ban. ed. 163); took effect immediately.*]

13,998. *Effect of order for submission.*

SEC. 998. If the court directs the case to be resubmitted, or an information to be filed, the defendant, if already in custody, must so remain, unless he is admitted to bail; or, if already admitted to bail, or money has been deposited instead thereof, the bail or money is answerable for the appearance of the defendant to answer a new indictment or information; and, unless a new indictment is found or information filed before the next grand jury of the county is discharged, the court must, on the discharge of such grand jury, make the order prescribed by the preceding section. [*Amendment, approved April 9, 1880; Amendments 1880, 17 (Ban. ed. 163); took effect immediately.*]

13,999. *Order no bar to another prosecution.*

SEC. 999. An order to set aside an indictment or information, as provided in this chapter, is no bar to a future prosecution for the same offense. [*Amendment, approved April 9, 1880; Amendment 1880, 18 (Ban. ed. 164); took effect immediately.*]

DEMURRER.

14,004. *Grounds of demurrer.*

SEC. 1004. The defendant may demur to the indictment or information when it appears upon the face thereof, either:

1. If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, by reason of its not being within the legal jurisdiction of the county; or, if an information, that the court has no jurisdiction of the offense charged therein.

2. That it does not substantially conform to the requirement of sections nine hundred and fifty, nine hundred and fifty-one, and nine hundred and fifty-two.

3. That more than one offense is charged.

4. That the facts stated do not constitute a public offense.

5. That it contains any matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution. [*Amendment, approved April 9, 1880; Amendments 1880, 18 (Ban. ed. 164); took effect immediately.*]

14,005. *Demurrer; how put in and its form.*

SEC. 1005. The demurrer must be in writing, signed either by the defendant or his counsel, and filed. It must distinctly specify the grounds of objection to the indictment or information, or it must be disregarded. [*Amendment, approved April 9, 1880; Amendments 1880, 18 (Ban. ed. 164); took effect immediately.*]

14,008. *If allowed, bar to another prosecution, when.*

SEC. 1008. If the demurrer is allowed, the judgment is final upon the indictment or information demurred to, and is a bar to another prosecution for the same offense, unless the court, being of the opinion that the objection on which the demurrer is allowed may be avoided in a new indictment or information, directs the case to be submitted to another grand jury, or directs a new infor-

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mation to be filed; provided, that after such order of resubmission the defendant may be examined before a magistrate, and discharged or committed by him, as in other cases. [*Amendment, approved April 9, 1880; Amendments 1880, 18 (Ban. ed. 164); took effect immediately.*]

14,009. *If resubmission not ordered, defendant discharged, etc.*

SEC. 1009. If the court does not permit the information to be amended, nor direct that an information be filed, or that the case be resubmitted, as provided in the preceding section, the defendant, if in custody, must be discharged, or if admitted to bail, his bail is exonerated, or if he has deposited money instead of bail, the money must be refunded to him. [*Amendment, approved April 9, 1880; Amendments 1880, 18 (Ban. ed. 164); took effect immediately.*]

14,012. *When objections, forming ground of demurrer, must or may be taken.*

SEC. 1012. When the objections mentioned in section one thousand and four appear on the face of the indictment or information, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment or information, or that the facts stated do not constitute a public offense, may be taken at the trial, under the plea of not guilty, or after the trial, in arrest of judgment. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 164); took effect immediately.*]

PLEA.

14,016. *The different kinds of pleas.*

SEC. 1016. There are four kinds of pleas to an indictment, or information.

A plea of:

1. Guilty.
2. Not guilty.
3. A former judgment of conviction or acquittal of the offense charged, which may be pleaded either with or without the plea of not guilty.
4. Once in jeopardy. [*Amendment, approved April 26, 1880; Amendments 1880, 44 (Ban. ed. 521); took effect from passage.*]

14,017. *Pleas, how put in, and form.*

SEC. 1017. Every plea must be oral, and entered upon the minutes of the court in substantially the following form:

1. If the defendant plead guilty: "The defendant pleads that he is guilty of the offense charged."
2. If he plead not guilty: "The defendant pleads that he is not guilty of the offense charged."
3. If he plead a former conviction or acquittal: "The defendant pleads that he has already been convicted (or acquitted) of the offense charged by the judgment of the court of — (naming it), rendered at — (naming the place), on the — day of —."
4. If he plead once in jeopardy: "The defendant pleads that he has been once in jeopardy for the offense charged (specifying the time, place, and court)." [*Amendment, approved April 26, 1880; Amendments 1880, 44 (Ban. ed. 521); took effect from passage.*]

14,018. *Plea of guilty, how put in, and when it may be withdrawn.*

SEC. 1018. A plea of guilty can be put in by the defendant himself only in open court, unless upon indictment or information against a corporation, in which case it may be put in by counsel. The court may at any time before judgment, upon a plea of guilty, permit it to be withdrawn and a plea of not

guilty substituted. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

14,019. *What plea of not guilty puts in issue.*

SEC. 1019. The plea of not guilty puts in issue every material allegation of the indictment or information. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

14,020. *What may be given in evidence under plea of not guilty.*

SEC. 1020. All matters of fact tending to establish a defense, other than that specified in the third and fourth subdivisions of section one thousand and sixteen, may be given in evidence under the plea of not guilty. [*Amendment, approved April 26, 1880; Amendments 1880, 44 (Ban. ed. 522); took effect from passage.*]

14,021. *What is not a formal acquittal.*

SEC. 1021. If the defendant was formerly acquitted on the ground of variance between the indictment or information and the proof, or the indictment or information was dismissed upon an objection to its form or substance, or in order to hold the defendant for a higher offense, without a judgment of acquittal, it is not an acquittal of the same offense. [*Amendment, approved April 19, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

14,022. *What is a formal acquittal.*

SEC. 1022. Whenever the defendant is acquitted on the merits, he is acquitted of the same offense, notwithstanding any defect in form or substance in the indictment or information on which the trial was had. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

14,023. *Conviction or acquittal on indictment or information for a higher offense.*

SEC. 1023. When the defendant is convicted or acquitted, or has been once placed in jeopardy upon an indictment or information, the conviction, acquittal, or jeopardy is a bar to another indictment or information for the offense charged in the former, or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under that indictment or information. [*Amendment, approved April 26, 1880; Amendments 1880, 44 (Ban. ed. 522); took effect from passage.*]

14,024. *Defendant refusing to answer, plea of not guilty to be entered.*

SEC. 1024. If the defendant refuses to answer the indictment or information by demurrer or plea, a plea of not guilty must be entered. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

14,025.

[Sec. 1025, relating to previous convictions, was repealed by act of April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.]

TRANSMISSION OF INDICTMENTS OR INFORMATIONS.

14,028.

[Sec. 1028, relating to the transmission of certain indictments from the county to the district court, was repealed by act of March 12, 1880; Amendments 1880, 6 (Ban. ed. 27); took effect from passage.]

14,029. *Indictments against a judge of the superior court, certificate of facts to be transmitted to governor.*

SEC. 1029. When an indictment is found or an information filed in a superior court against a judge thereof, a certificate of that fact must be transmitted by

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the clerk to the governor, who shall thereupon designate and direct a judge of the superior court of another county to preside at the trial of such indictment or information, and hear and determine all pleas and motions affecting the defendant thereunder before and after judgment. [*Amendment, approved March 12, 1880; Amendments 1880, 6 (Ban. ed. 27); took effect immediately.*]

14,030.

[Sec. 1030, relating to the transmission of certain indictments to the municipal criminal court of San Francisco, was repealed by act of March 12, 1880; Amendments 1880, 6 (Ban. ed. 27); took effect from passage.]

REMOVAL OF ACTION BEFORE TRIAL.

14,033. *When action may be removed.*

SEC. 1033. A criminal action may be removed from the court in which it is pending, on the application of the defendant, on the ground that a fair and impartial trial can not be had in the county where the action is pending. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

MODE OF TRIAL.

14,041. *Issue of fact defined.*

SEC. 1041. An issue of fact arises:

1. Upon a plea of not guilty.
2. Upon a plea of a former conviction or acquittal of the same offense.
3. Upon a plea of once in jeopardy. [*Amendment, approved April 26, 1880; Amendments 1880, 45 (Ban. ed. 522); took effect from passage.*]

14,042 *Issue of fact, how tried.*

SEC. 1042. Issues of fact must be tried by jury, unless a trial by jury be waived in criminal cases not amounting to felony, by the consent of both parties expressed in open court and entered in its minutes. In cases of misdemeanor the jury may consist of twelve, or any number less than twelve upon which the parties may agree in open court. [*Amendment, approved February 25, 1880; Amendments 1880, 4 (Ban. ed. 9); took effect immediately.*]

14,043. *When presence of defendant is necessary on the trial.*

SEC. 1043. If the prosecution be for a felony, the defendant must be personally present at the trial; but if for misdemeanor, the trial may be had in the absence of the defendant; if, however, his presence is necessary for the purpose of identification, the court may, upon application of the district attorney by an order or warrant, require the personal attendance of the defendant at the trial. [*Amendment, approved April 9, 1880; Amendments 1880, 19 (Ban. ed. 165); took effect immediately.*]

FORMATION OF TRIAL JURY AND CALENDAR OF ISSUES.

14,047. *Clerk to prepare a calendar.*

SEC. 1047. The clerk must keep a calendar of all criminal actions pending in the court, enumerating them according to the date of the filing of the indictment or information, specifying opposite the title of each action whether it is for a felony or a misdemeanor, and whether the defendant is in custody or on bail. [*Amendment, approved April 9, 1880; Amendments 1880, 20 (Ban. ed. 166); took effect immediately.*]

14,048. *Order of disposing of issues on the calendar.*

SEC. 1048. The issues on the calendar must be disposed of in the following

order, unless for good cause the court shall direct an action to be tried out of its order:

1. Prosecutions for felony, when the defendant is in custody.
2. Prosecutions for misdemeanor, when the defendant is in custody.
3. Prosecutions for felony, when the defendant is on bail.
4. Prosecutions for misdemeanor, when the defendant is on bail. [*Amendment, approved April 9, 1880; Amendments 1880, 20 (Ban. ed. 166); took effect immediately.*]

POSTPONEMENT OF TRIAL.

14,052. *Postponement, when and how ordered.*

SEC. 1052. When an action is called for trial, or at any time previous thereto, the court may, upon sufficient cause, direct the trial to be postponed to another day. [*Amendment, approved April 9, 1880; Amendments 1880, 20 (Ban. ed. 166); took effect immediately.*]

CHALLENGING THE JURY.

14,065. *If challenge allowed, jury to be discharged; if disallowed, to be impaneled.*

SEC. 1065. If, either upon an exception to the challenge or a denial of the facts, the challenge is allowed, the court must discharge the jury so far as the trial in question is concerned. If it is disallowed, the court must direct the jury to be impaneled. [*Amendment, approved April 9, 1880; Amendments 1880, 20 (Ban. ed. 166); took effect immediately.*]

14,074. *Grounds of challenge for actual bias.*

SEC. 1074. A challenge for implied bias may be taken for all or any of the following causes, and for no other:

1. Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.
2. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in his employment on wages.
3. Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution.
4. Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment or information.
5. Having served on a trial jury which has tried another person for the offense charged.
6. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict, after the case was submitted to it.
7. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

8. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case, he must neither be permitted nor compelled to serve as a juror. [*Amendment, approved April 9, 1880; Amendments 1880, 20 (Ban. ed. 166); took effect immediately.*]

THE TRIAL.

14,093. *Order of trial.*

SEC. 1093. The jury having been impaneled and sworn, the trial must proceed in the following order, unless otherwise directed by the court:

1. If the indictment or information be for felony, the clerk must read it, and state the plea of the defendant to the jury, and in cases where it charges a previous conviction, and the defendant has confessed the same, the clerk in reading it shall omit therefrom all that relates to such previous conviction. In all other cases this formality may be dispensed with.

2. The district attorney, or other counsel for the people, must open the cause and offer the evidence in support of the charge.

3. The defendant or his counsel may then open the defense, and offer his evidence in support thereof.

4. The parties may then respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the district attorney, or other counsel for the people, and counsel for the defendant, may argue the case to the court and jury; the district attorney, or other counsel for the people, opening the argument and having the right to close.

6. The judge may then charge the jury, and must do so on any points pertinent to the issue, if requested by either party; and he may state the testimony and declare the law. If the charge be not given in writing, it must be taken down by the phonographic reporter. [*Amendment, approved April 9, 1880; Amendments 1880, 21 (Ban. ed. 167); took effect immediately.*]

14,095. *Number of counsel who may argue the case to the jury.*

SEC. 1095. If the indictment or information be for an offense punishable with death, two counsel on each side may argue the cause to the jury. If it be for any other offense, the court may, in its discretion, restrict the argument to one counsel on each side. [*Amendment, approved April 9, 1880; Amendments 1880, 21 (Ban. ed. 168); took effect immediately.*]

14,098. *Separate trials.*

SEC. 1098. When two or more defendants are jointly charged with a felony, any defendant requiring it must be tried separately. In other cases, the defendants jointly charged may be tried separately or jointly, in the discretion of the court. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 168); took effect immediately.*]

14,099. *Discharging one of several defendants before verdict, that he may be a witness.*

SEC. 1099. When two or more persons are included in the same charge, the court may, at any time before the defendants have gone into their defense, on the application of the district attorney, direct any defendant to be discharged, that he may be a witness for the people. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 168); took effect immediately.*]

14,100. *Same.*

SEC. 1100. When two or more persons are included in the same indictment or information, and the court is of opinion that in regard to a particular defendant there is not sufficient evidence to put him on his defense, it must order him to be discharged before the evidence is closed, that he may be a witness

for his co-defendant. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 168); took effect immediately.*]

14,103. Evidence on trial for treason.

SEC. 1103. Upon a trial for treason, the defendant can not be convicted unless upon the testimony of two witnesses to the same overt act, or upon confession in open court; nor can evidence be admitted of an overt act not expressly charged in the indictment or information; nor can the defendant be convicted unless one or more overt acts be expressly alleged therein. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 168); took effect immediately.*]

14,104. Evidence on trial for conspiracy.

SEC. 1104. Upon a trial for conspiracy, in a case where an overt act is necessary to constitute the offense, the defendant can not be convicted unless one or more overt acts are expressly alleged in the indictment or information, nor unless one of the acts alleged is proved; but other overt acts not alleged may be given in evidence. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 168); took effect immediately.*]

14,112.

[Sec. 1112, relating to cases where the evidence showed a higher offense than the one charged, was repealed by act of March 12, 1880; Amendments 1880, 6 (Ban. ed. 27); took effect from passage.]

14,113. Court may discharge jury when it has not jurisdiction, etc.

SEC. 1113. The court may direct the jury to be discharged where it appears that it has not jurisdiction of the offense, or that the facts charged do not constitute an offense punishable by law. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 168); took effect immediately.*]

14,114. Proceeding if jury discharged for want of jurisdiction of offense committed out of the State.

SEC. 1114. If the jury be discharged because the court has not jurisdiction of the offense charged, and it appear that it was committed out of the jurisdiction of this State, the defendant must be discharged. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 169); took effect immediately.*]

14,115. Proceeding in such case, when offense committed in the State.

SEC. 1115. If the offense was committed within the exclusive jurisdiction of another county of this State, the court must direct the defendant to be committed for such time as it deems reasonable, to await a warrant from the proper county for his arrest; or if the offense is a misdemeanor only, it may admit him to bail in an undertaking, with sufficient sureties, that he will, within such time as the court may appoint, render himself amenable to a warrant for his arrest from the proper county; and, if not sooner arrested thereon, will attend at the office of the sheriff of the county where the trial was had, at a certain time particularly specified in the undertaking, to surrender himself upon the warrant, if issued, or that his bail will forfeit such sum as the court may fix, to be mentioned in the undertaking; and the clerk must forthwith transmit a certified copy of the indictment or information, and of all the papers filed in the action, to the district attorney of the proper county, the expense of which transmission is chargeable to that county. [*Amendment, approved April 9, 1880; Amendments 1880, 22 (Ban. ed. 169); took effect immediately.*]

14,117. Proceedings if jury discharged because the facts do not constitute an offense.

SEC. 1117. If the jury is discharged because the facts as charged do not con-

stitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged; or if admitted to bail, that his bail be exonerated; or if he has deposited money instead of bail, that the money be refunded to him, unless in its opinion a new indictment or information can be framed upon which the defendant can be legally convicted, in which case it may direct the district attorney to file a new information, or (if the defendant has not been committed by a magistrate) direct that the case be submitted to the same or another grand jury; and the same proceedings must be had thereon as are prescribed in section nine hundred and ninety-eight; provided, that after such order or submission the defendant may be examined before a magistrate, and discharged or committed by him as in other cases. [*Amendment, approved April 9, 1880; Amendments 1880, 23 (Ban. ed. 169); took effect immediately.*]

14,121. *Jurors may be permitted to separate during trial.*

SEC. 1121. The jurors sworn to try an action may, at any time before the submission of the cause to the jury, in the discretion of the court, be permitted to separate or be kept in charge of a proper officer. The officer must be sworn to keep the jurors together until the next meeting of the court, to suffer no person to speak to them or communicate with them, nor to do so himself, on any subject connected with the trial, and to return them into court at the next meeting thereof. [*Amendment, approved April 9, 1880; Amendments 1880, 23 (Ban. ed. 169); took effect immediately.*]

14,125. *On trial for libel, jury to determine law and fact.*

SEC. 1125. On a trial for libel, the jury has the right to determine the law and the fact. [*Amendment, approved April 9, 1880; Amendments 1880, 23 (Ban. ed. 170); took effect immediately.*]

14,126. *In all other cases, court to decide questions of law.*

SEC. 1126. On a trial for any other offense than libel, questions of law are to be decided by the court, questions of fact by the jury; and, although the jury have the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive as law what is laid down as such by the court. [*Amendment, approved April 9, 1880; Amendments 1880, 23 (Ban. ed. 170); took effect immediately.*]

14,131. *When allegations of embezzlement sustained.*

SEC. 1131. Upon a trial for larceny or embezzlement of money, bank notes, certificates of stock, or valuable securities, the allegation of the indictment or information, so far as regards the description of the property, is sustained, if the offender be proved to have embezzled or stolen any money, bank notes, certificates of stock, or valuable security, although the particular species of coin or other money, or the number, denomination, or kind of bank notes, certificates of stock, or valuable security, be not proved; and upon a trial for embezzlement, if the offender be proved to have embezzled any piece of coin or other money, any bank note, certificate of stock, or valuable security, although such piece of coin or other money, or such bank note, certificate of stock, or valuable security, may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly. [*Amendment, approved April 9, 1880; Amendments 1880, 23 (Ban. ed. 170); took effect immediately.*]

14,141. *When jury discharged or prevented from giving a verdict, cause to be again tried.*

SEC. 1141. In all cases where a jury is discharged or prevented from giving

a verdict by reason of an accident or other cause, except where the defendant is discharged during the progress of the trial, or after the cause is submitted to them, the cause may be again tried. [*Amendment, approved April 9, 1880; Amendments 1880, 24 (Ban. ed. 170); took effect immediately.*]

14,143.

[Sec. 1143, relating to the discharge of the jury by the final adjournment of the court, was repealed by act of March 12, 1880; Amendments 1880, 6 (Ban. ed. 27); took effect from passage.]

THE VERDICT.**14,148. Appearance of defendant.**

SEC. 1148. If charged with a felony, the defendant must, before the verdict is received, appear in person. If for a misdemeanor, the verdict may be rendered in his absence. [*Amendment, approved April 9, 1880; Amendments 1880, 24 (Ban. ed. 170); took effect immediately.*]

14,150. Verdict may be general or special.

SEC. 1150. The jury may render a general verdict, or, when they are in doubt as to the legal effect of the facts proved, they may, except upon a trial for libel, find a special verdict. [*Amendment, approved April 9, 1880; Amendments 1880, 24 (Ban. ed. 171); took effect immediately.*]

14,158. Jury may find upon charge of previous conviction.

SEC. 1158. Whenever the fact of a previous conviction of another offense is charged in an indictment or information, the jury, if they find a verdict of guilty of the offense with which he is charged, must also, unless the answer of the defendant admits the charge, find whether or not he has suffered such previous conviction. The verdict of the jury upon a charge of previous conviction may be: "We find the charge of previous conviction true," or, "We find the charge of previous conviction not true," as they find that the defendant has or has not suffered such conviction. [*Amendment, approved April 9, 1880; Amendments 1880, 24 (Ban. ed. 171); took effect immediately.*]

14,159. Jury may convict of lesser offense or of attempt.

SEC. 1159. The jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense. [*Amendment, approved April 9, 1880; Amendments 1880, 24 (Ban. ed. 171); took effect immediately.*]

14,160. Verdict as to some defendants, and another trial as to others.

SEC. 1160. On an indictment or information against several, if the jury can not agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the others may be tried by another jury. [*Amendment, approved April 9, 1880; Amendments 1880, 24 (Ban. ed. 171); took effect immediately.*]

14,165. Defendant, when to be discharged or detained after acquittal.

SEC. 1165. If judgment of acquittal is given on a general verdict, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given, except where the acquittal is because of a variance between the pleading and proof, which may be obviated by a new indictment or information, the court may order his detention, to the end that a new indictment or information may be preferred, in the same manner and with like effect as provided in section one thousand one hundred and seventeen.

14,165-14,197 AMENDMENTS TO THE PENAL CODE.

Amendment, approved April 9, 1880; Amendments 1880, 25 (Ban. ed. 171); took effect immediately.

BILLS OF EXCEPTIONS.

14,170. *Exceptions may be taken, in what cases.*

SEC. 1170. On the trial of an indictment or information, exceptions may be taken by the defendant to a decision of the court:

1. In disallowing a challenge to the panel of the jury, or to an individual juror for implied bias.

2. In admitting or rejecting testimony on the trial of a challenge to a juror for actual bias.

3. In admitting or rejecting testimony, or in deciding any question of law not a matter of discretion, or in charging or instructing the jury upon the law on the trial of the issue. [*Amendment, approved April 9, 1880; Amendments 1880, 25 (Ban. ed. 171); took effect immediately.*]

ARREST OF JUDGMENT.

14,185. *Motion in arrest of judgment defined.*

SEC. 1185. A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea or verdict of guilty, or on a verdict against the defendant, on a plea of a former conviction or acquittal. It may be founded on any of the defects in the indictment or information mentioned in section one thousand and four, unless the objection has been waived by a failure to demur, and must be made before or at the time the defendant is called for judgment. [*Amendment, approved April 9, 1880; Amendments 1880, 25 (Ban. ed. 172); took effect immediately.*]

14,187. *Effect of arresting judgment.*

SEC. 1187. The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the indictment was found or information filed. [*Amendment, approved April 9, 1880; Amendments 1880, 25 (Ban. ed. 172); took effect immediately.*]

14,188. *Defendant, when to be held or discharged.*

SEC. 1188. If, from the evidence on the trial, there is reason to believe the defendant guilty, and a new indictment or information can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper county, or admitted to bail anew, to answer the new indictment or information. If the evidence shows him guilty of another offense, he must be committed or held thereon, and in neither case shall the verdict be a bar to another prosecution. But if no evidence appears sufficient to charge him with any offense, he must, if in custody, be discharged; or if admitted to bail, his bail is exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant; and the arrest of judgment shall operate as an acquittal of the charge upon which the indictment or information was founded. [*Amendment, approved April 9, 1880; Amendments 1880, 25 (Ban. ed. 172); took effect immediately.*]

JUDGMENT AND EXECUTION.

14,197. *Form of bench warrant.*

SEC. 1197. The bench warrant must be substantially in the following form: County of —. The People of the State of California, to any sheriff, constable, marshal, or policeman in this State: A. B., having been on the —

day of —, A. D. eighteen hundred and —, duly convicted in the superior court of the County of —, of the crime of — (designating it generally), you are therefore commanded forthwith to arrest the above-named A. B., and bring him before that court for judgment. Given under my hand, with the seal of said court affixed, this — day of —, A. D. eighteen hundred and —. By order of the court. [Seal.] E. F., Clerk. [*Amendment, approved April 12, 1880; Amendments 1880, 34 (Ban. ed. 200); took effect immediately.*]

14,200. Arraignment of defendant for judgment.

SEC. 1200. When the defendant appears for judgment he must be informed by the court, or by the clerk, under its direction, of the nature of the charge against him and of his plea, and the verdict, if any thereon, and must be asked whether he has any legal cause to show why judgment should not be pronounced against him. [*Amendment, approved April 9, 1880; Amendments 1880, 26 (Ban. ed. 172); took effect immediately.*]

14,207. Entry of judgment and judgment roll.

SEC. 1207. When judgment upon a conviction is rendered, the clerk must enter the same in the minutes, stating briefly the offense for which the conviction was had, and the fact of a prior conviction (if one), and must, within five days, annex together and file the following papers, which will constitute a record of the action:

1. The indictment or information, and a copy of the minutes of the plea or demurrer.
2. A copy of the minutes of the trial.
3. The charges given or refused, and the indorsements thereon. And,
4. A copy of the judgment. [*Amendment, approved April 9, 1880; Amendments 1880, 26 (Ban. ed. 172); took effect immediately.*]

APPEALS.

14,238. In what cases an appeal may be taken by the people.

SEC. 1238. An appeal may be taken by the people:

1. From a judgment for the defendant on a demurrer to the indictment or information.
2. From an order granting a new trial.
3. From an order arresting judgment.
4. From any order made after judgment, affecting the substantial rights of the people.
5. From an order of the court directing the jury to find for the defendant. [*Amendment, approved April 9, 1880; Amendments 1880, 26 (Ban. ed. 173); took effect immediately.*]

14,246. Duty of clerks upon appeal.

SEC. 1246. Upon the appeal being taken, the clerk with whom the notice of appeal is filed must, within ten days thereafter, in case the bill of exceptions has been settled by the judge before the giving of said notice, but if not, then within ten days from the settlement of the bill of exceptions, without charge, transmit to the clerk of the appellate court a copy of the notice of appeal, and of the record, and of all bills of exceptions, instructions, and indorsements thereon; and, upon the receipt thereof, the clerk of the appellate court must file the same and perform the same services as in civil cases, without charge. [*Amendment, approved April 9, 1880; Amendments 1880, 9 (Ban. ed. 153); took effect from passage.*]

14,248-14,310 AMENDMENTS TO THE PENAL CODE.

14,248. *For what irregularity, and how dismissed.*

SEC. 1248. If the appeal is irregular in any substantial particular, but not otherwise, the appellate court may, on any day, on motion of the respondent, upon five days' notice, accompanied with copies of the papers upon which the motion is founded, order it to be dismissed. [*Amendment, approved April 9, 1880; Amendments 1880, 10 (Ban. ed. 154); took effect from passage.*]

14,252. *Appeals, when to be heard and determined.*

SEC. 1252. All appeals in criminal cases must be heard and determined by the appellate court within sixty days after the record is filed in said appellate court, unless continued on motion or with the consent of the defendant. [*Amendment, approved April 9, 1880; Amendments 1880, 10 (Ban. ed. 154); took effect from passage.*]

BAIL.

14,284. *When offense is not capital.*

SEC. 1284. When the offense charged is not punishable with death, the officer serving the bench warrant must, if required, take the defendant before a magistrate in the county in which it is issued, or in which he is arrested, for the purpose of giving bail. [*Amendment, approved April 9, 1880; Amendments 1880, 26 (Ban. ed. 172); took effect immediately.*]

14,285. *When offense is capital.*

SEC. 1285. If the offense charged is punishable with death, the officer arresting the defendant must deliver him into custody, according to the command of the bench warrant. [*Amendment, approved April 9, 1880; Amendments 1880, 26 (Ban. ed. 173); took effect immediately.*]

14,289. *Increase or reduction of bail.*

SEC. 1289. After a defendant has been admitted to bail upon an indictment or information, the court in which the charge is pending may, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the court may order the defendant to be committed to actual custody, unless he give bail in such increased amount. If application be made by the defendant for a reduction of the amount, notice of the application must be served upon the district attorney. [*Amendment, approved April 9, 1880; Amendments 1880, 26 (Ban. ed. 173); took effect immediately.*]

14,291. *Who may admit to bail.*

SEC. 1291. In the cases in which defendant may be admitted to bail upon an appeal, the order admitting him to bail may be made by any magistrate having the power to issue a writ of habeas corpus, or by the magistrate before whom the trial was had. [*Amendment, approved February 25, 1878; Amendments 1877-8, 122; took effect from passage.*]

14,310. *Recommitment of defendant, in what cases.*

SEC. 1310. The court to which the committing magistrate returns the depositions, or in which an indictment, information, or appeal is pending, or to which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases:

1. When, by reason of his failure to appear, he has incurred a forfeiture of his bail, or of money deposited instead thereof.

2. When it satisfactorily appears to the court that his bail, or either of them, are dead or insufficient, or have removed from the State.

3. Upon an indictment being found or information filed in the cases provided in section nine hundred and eighty-five. [*Amendment, approved April 9, 1880; Amendments 1880, 27 (Ban. ed. 173); took effect immediately.*]

COMPELLING ATTENDANCE OF WITNESSES.

14,326. *Subpena defined, who may issue.*

SEC. 1326. The process by which the attendance of a witness before a court or magistrate is required is a subpoena; it may be signed and issued by:

1. A magistrate before whom a complaint is laid, for witnesses in the State, either on behalf of the people or of the defendant.

2. The district attorney, for witnesses in the State, in support of the prosecution, or for such other witnesses as the grand jury, upon an investigation pending before them, may direct.

3. The district attorney, for witnesses in the State, in support of an indictment or information, to appear before the court in which it is to be tried.

4. The clerk of the court in which an indictment or information is to be tried; and he must, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him as clerk, for witnesses in the State, as the defendant may require. [*Amendment, approved April 9, 1880; Amendments 1880, 27 (Ban. ed. 174); took effect immediately.*]

14,330. *Witness residing or served with subpoena out of the county, how compelled to attend.*

SEC. 1330. No person is obliged to attend as a witness before a court or magistrate out of the county where the witness resides, or is served with the subpoena, unless the judge of the court in which the offense is triable, or a justice of the supreme court, or a judge of a superior court, upon an affidavit of the district attorney or prosecutor, or of the defendant, or his counsel, stating that he believes the evidence of the witness is material, and his attendance at the examination or trial necessary, shall indorse on the subpoena an order for the attendance of the witness. [*Amendment, approved April 12, 1880; Amendments 1880, 34 (Ban. ed. 201); took effect immediately.*]

14,333. *Who may order temporary removal of imprisoned witnesses.*

SEC. 1333. When the testimony of a material witness for the people is required in a criminal action, before a court of record of this State, and such witness is a prisoner in the State prison, or in a county jail, an order for his temporary removal from such prison or jail, and for his production before such court, may be made by the court in which the action is pending, or by the judge thereof; but in case the prison or jail is out of the county in which the application is made, such order shall only be made upon the affidavit of the district attorney, or other person, on behalf of the people, showing that the testimony is material and necessary; and even then the granting of the order shall be in the discretion of the court or judge. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to safely keep him, and when he is no longer required as a witness, to return him to the prison or jail whence he was taken; the expense of executing such order shall be paid by the county in which the order shall be made. [*New Section, approved April 1, 1878; Amendments 1877-8, 123; took effect immediately.*]

EXAMINATION OF WITNESSES CONDITIONALLY.

14,335. *Witness to be examined conditionally for the defendant.*

SEC. 1335. When a defendant has been held to answer a charge for a public offense, he may, either before or after an indictment or information, have witnesses examined conditionally on his behalf, as prescribed in this chapter, and not otherwise. [*Amendment, approved April 9, 1880; Amendments 1880, 27 (Ban. ed. 174); took effect immediately.*]

14,338. *Application to whom made.*

SEC. 1338. The application may be made to the court, or to a judge thereof, and must be upon three days' notice to the district attorney. [*Amendment, approved March 12, 1880; Amendments 1880, 5 (Ban. ed. 26); took effect immediately.*]

14,346. *Deposition of witnesses who are prisoners in other counties.*

SEC. 1346. When a material witness for a defendant, under a criminal charge, is a prisoner in the State prison, or in the county jail of a county other than that in which the defendant is to be tried, his deposition may be taken, on behalf of the defendant, in the manner provided for in the case of a witness who is sick, and the provisions of the Penal Code, commencing with section thirteen hundred and thirty-five and ending with section thirteen hundred and forty-five, shall, so far as applicable, govern in the application for and in the taking and use of such deposition. Such deposition may be taken before any magistrate or notary public of the county in which the jail or prison is situated; or in case the witness is confined in the State prison, and the defendant is unable to pay for taking the deposition, before the warden or clerk of the board of directors of the State prison, whose duty it shall be to act without compensation. Every officer, before whom testimony shall be taken by virtue hereof, shall have authority to administer, and shall administer, an oath to the witness that his testimony shall be the truth, the whole truth, and nothing but the truth. [*Amendment, approved April 9, 1880; Amendments 1880, 27 (Ban. ed. 174); took effect immediately.*]

EXAMINATION OF WITNESSES ON COMMISSION.

14,349. *Witness residing out of the State, when to be examined.*

SEC. 1349. When an issue of fact is joined upon an indictment or information, the defendant may have any material witness, residing out of the State, examined in his behalf, as prescribed in this chapter, and not otherwise. [*Amendment, approved April 9, 1880; Amendments 1880, 28 (Ban. ed. 175); took effect immediately.*]

14,353. *Application to whom made.*

SEC. 1353. The application may be made to the court, or a judge thereof, and must be upon three days' notice to the district attorney. [*Amendment, approved March 12, 1880; Amendments 1880, 6 (Ban. ed. 26); took effect immediately.*]

14,354. *Order of commission, when granted, and stay of proceedings.*

SEC. 1354. If the court to whom the application is made is satisfied of the truth of the facts stated, and that the examination of the witness is necessary to the attainment of justice, an order must be made that a commission be issued to take his testimony; and the court may insert in the order a direction that the trial be stayed for a specified time, reasonably sufficient for the execution and return of the commission. [*Amendment, approved April 9, 1880; Amendments 1880, 28 (Ban. ed. 175); took effect immediately.*]

14,358. *Commission, how returned when delivered to an agent for that purpose.*

Sec. 1358. If the commission and return be delivered by the commissioner to an agent, he must deliver the same to the clerk to whom it is directed, or to the judge of the court in which the action is pending, by whom it may be received and opened, upon the agent making affidavit that he received it from the hands of the commissioner, and that it has not been opened or altered since he received it. [*Amendment, approved April 9, 1880; Amendments 1880, 28 (Ban. ed. 175); took effect immediately.*]

INQUIRY INTO INSANITY OF DEFENDANT.

14,368. *When doubts arise as to sanity of defendant, how determined.*

Sec. 1368. When an action is called for trial, or at any time during the trial, or when the defendant is brought up for judgment on conviction, if a doubt arise as to the sanity of the defendant, the court must order the question as to his sanity to be submitted to a jury; and the trial or the pronouncing of the judgment must be suspended until the question is determined by their verdict, and the trial jury may be discharged or retained, according to the discretion of the court, during the pendency of the issue of insanity. [*Amendment, approved April 9, 1880; Amendments 1880, 28 (Ban. ed. 175); took effect immediately.*]

14,370. *Verdict of the jury as to sanity, and proceedings thereon.*

Sec. 1370. If the jury find the defendant sane; the trial must proceed, or judgment be pronounced, as the case may be. If the jury find the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court must order that he be in the mean time committed by the sheriff to the State insane asylum, and that upon his becoming sane he be redelivered to the sheriff. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 176); took effect immediately.*]

14,373. *Expense of sending, etc., defendant to asylum; where chargeable.*

Sec. 1373. The expenses of sending the defendant to the asylum, of keeping him there, and of bringing him back, are in the first instance chargeable to the county in which the indictment was found, or information filed; but the county may recover them from the estate of the defendant, if he have any, or from a relative, town, city, or county bound to provide for and maintain him elsewhere. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 176); took effect immediately.*]

DISMISSAL OF ACTION FOR WANT OF PROSECUTION.

14,382. *When action may be dismissed.*

Sec. 1382. The court, unless good cause to the contrary is shown, must order the prosecution to be dismissed in the following cases:

1. When a person has been held to answer for a public offense, if an indictment is not found or an information filed against him, within thirty days thereafter.

2. If a defendant, whose trial has not been postponed upon his application, is not brought to trial within sixty days after the finding of the indictment, or filing of the information. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 176) took effect immediately.*]

14,383. *Court may order action to be continued and discharge defendant from custody, when and how.*

Sec. 1383. If the defendant is not charged or tried, as provided in the last

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section, and sufficient reason therefor is shown, the court may order the action to be continued from time to time, and in the mean time may discharge the defendant from custody on his own undertaking of bail for his appearance to answer the charge at the time to which the action is continued. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 176); took effect immediately.*]

PROCEEDINGS AGAINST CORPORATIONS.

14,395. *Grand jury to investigate if magistrate certifies there is sufficient cause.*

SEC. 1395. If the magistrate returns a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed, or the district attorney file an information thereon, as in case of a natural person held to answer. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 176); took effect immediately.*]

14,396. *Appearance and plea.*

SEC. 1396. If an indictment is found, or information filed, the corporation may appear by counsel to answer the same. If it does not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 176); took effect immediately.*]

ENTITLING AFFIDAVITS.

14,401. *Affidavits defectively entitled, valid.*

SEC. 1401. It is not necessary to entitle an affidavit or deposition in the action, whether taken before or after indictment or information, or upon an appeal; but if made without a title, or with an erroneous title, it is as valid and effectual for every purpose as if it were duly entitled, if it intelligibly refer to the proceeding, indictment, information, or appeal in which it is made. [*Amendment, approved April 9, 1880; Amendments 1880, 29 (Ban. ed. 177); took effect immediately.*]

REPRIEVES, COMMUTATIONS, AND PARDONS.

14,418. *Governor's power in respect to convictions for treason.*

SEC. 1418. He may suspend the execution of a sentence, upon a conviction for treason, until the case can be reported to the legislature at its next meeting, when the legislature may either pardon, direct the execution of the sentence, or grant a further reprieve; provided, that neither the governor nor the legislature shall have power to grant pardons or commutations of sentence in any case where the convict has been twice convicted of felony, after the first day of January, eighteen hundred and eighty, unless upon the written recommendation of a majority of the judges of the supreme court. [*Amendment, approved February 18, 1880; Amendments 1880, 2 (Ban. ed. 7); took effect immediately.*]

14,419. *Governor to communicate to legislature reprieves, commutations, and pardons.*

SEC. 1419. He must, at the beginning of every session, communicate to the legislature each case of reprieve, commutation, or pardon, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve, and the reasons for granting the same. [*Amendment, approved February 18, 1880; Amendments 1880, 3 (Ban. ed. 7); took effect immediately.*]

PROCEEDINGS AND JUSTICES' AND POLICE COURTS.

14,429. *The plea, and how put in.*

SEC. 1429. The defendant may make the same plea as upon an indictment, as provided in section ten hundred and sixteen. His plea must be oral, and entered in the minutes. If the defendant plead guilty, the court may, before entering such plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed; and if it appear to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail, to answer any indictment which may be found against him by the grand jury, or any information which may be filed by the district attorney. [*Amendment, approved April 9, 1880; Amendments 1880, 30 (Ban. ed. 177); took effect immediately.*]

14,430. *Issue, how tried.*

SEC. 1430. Upon a plea other than a plea of guilty, if the parties waive a trial by jury, and an adjournment or change of venue is not granted, the court must proceed to try the case. [*Amendment, approved February 25, 1880; Amendments 1880, 5 (Ban. ed. 9) took effect immediately.*]

14,435. *Jury trial, how waived.*

SEC. 1435. A trial by jury may be waived by the consent of both parties expressed in open court and entered in the docket. The formation of the jury is provided for in chapter one, title three, part one, of the Code of Civil Procedure. [*Amendment, approved February 25, 1880; Amendments 1880, 5 (Ban. ed. 9); took effect immediately.*]

APPEALS TO [SUPERIOR] COURTS.

14,466. *Appeals, when allowed.*

SEC. 1466. Either party may appeal to the superior court of the county from a judgment of a justice's or police court, in like cases and for like cause as appeals may be taken to the supreme court. [*Amendment, approved April 12, 1880; Amendments 1880, 34 (Ban. ed. 201); took effect immediately.*]

14,468. *Statement on appeal.*

SEC. 1468. The appeal to the superior court from the judgment of a justice's or police court is heard upon a statement of the case settled by the justice or police judge, embodying such rulings of the court as are excepted to, which statement must be filed with and settled by the court within ten days after filing notice of appeal. [*Amendment, approved April 12, 1880; Amendments 1880, 34 (Ban. ed. 201); took effect immediately.*]

14,469. *If new trial granted, in what court had.*

SEC. 1469. If a new trial is granted upon appeal, it must be had in the superior court. [*Amendment, approved April 12, 1880; Amendments 1880, 35 (Ban. ed. 201); took effect immediately.*]

HABEAS CORPUS.

14,475. *Habeas corpus, by whom issued and before whom returnable.*

SEC. 1475. The writ of habeas corpus may be granted:

1. By the supreme court, or any justice thereof, upon petition by or on behalf of any person restrained of his liberty in this State. When so issued it may be made returnable before the court, or any justice thereof, or before any superior court or any judge thereof.

2. By the superior courts or a judge thereof, upon petition by or on behalf

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of any person restrained of his liberty in their respective counties. [*Amendment, approved February 18, 1880; Amendments 1880, 4 (Ban. ed. 8); took effect immediately.*]

14,504. *Where returnable.*

SEC. 1504. All such writs and process, when made returnable before a judge, must be returned before him at the county seat, and there heard and determined. [*Amendment, approved February 18, 1880; Amendments 1880, 4 (Ban. ed. 8); took effect immediately.*]

CORONERS' INQUESTS.

14,515. *Testimony in writing—Where filed.*

SEC. 1515. The testimony of the witnesses examined before the coroner's jury must be reduced to writing by the coroner, or under his direction, and forthwith filed by him, with the inquisition, in the office of the clerk of the superior court of the county. [*Amendment, approved April 12, 1880; Amendments 1880, 35 (Ban. ed. 201); took effect immediately.*]

14,516. *Exception.*

SEC. 1516. If, however, the person charged with the commission of the offense is arrested before the inquisition can be filed, the coroner must deliver the same, with the testimony taken, to the magistrate before whom such person may be brought, who must return the same, with the depositions and statement taken before him, to the office of the clerk of the superior court of the county. [*Amendment, approved April 12, 1880; Amendments 1880, 35 (Ban. ed. 201); took effect immediately.*]

PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE.

14,556. *Magistrate to return his proceedings to superior court.*

SEC. 1556. The magistrate must return his proceedings to the superior court of the county, which must thereupon inquire into the cause of the arrest and detention of the person charged, and if he is in custody, or the time of his arrest has not elapsed, it may discharge him from detention, or may order his undertaking of bail to be canceled, or may continue his detention for a longer time, or readmit him to bail, to appear and surrender himself within a time specified in the undertaking. [*Amendment, approved April 12, 1880; Amendments 1880, 35 (Ban. ed. 202); took effect immediately.*]

STATE PRISON.

14,586. *Compensation of sheriffs for transportation of convicts.*

SEC. 1586. Sheriffs delivering prisoners at the State prisons must receive all expenses necessary incurred in their transportation, and also a just and reasonable compensation for their own services, the amount of the expenses and compensation in each case to be audited and allowed by the board of examiners and paid out of any moneys in the State treasury appropriated for that purpose, and no further compensation shall be received by sheriffs for such transportation or services. [*Amendment, approved April 9, 1880; Amendments 1880, 31 (Ban. ed. 188); took effect immediately; repealed all conflicting acts.*]

14,590. *Credits for good behavior; how and when allowed.*

SEC. 1590. The board of State prison directors of this State shall require of every able-bodied convict confined in said prison as many hours of faithful labor, in each and every day during his term of imprisonment, as shall be

prescribed by the rules and regulations of the prison, and every convict faithfully performing such labor, and being in all respects obedient to the rules and regulations of the prison, or if unable to work, yet faithful and obedient, shall be allowed from his term, instead and in lieu of the commutation heretofore allowed by law, a deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of said term; provided, that any such convict who shall commit an assault upon his keeper, or any foreman, officer, or convict, or otherwise endanger life, or by any flagrant disregard of the rules of the prison, or any misdemeanor whatever, shall forfeit all deductions of time earned by him for good conduct before the commission of such offense; such forfeiture, however, shall only be made by the board of directors, after due proof of the offense, and notice to the offender; nor shall such forfeiture be imposed when a party has violated any rule or rules without violence or evil intent, of which the directors shall be the sole judges. The name of no convict who attempts to escape, after the passage of this act, shall be sent by the State prison officials to the governor for the commutation herein provided; provided further, that of those prisoners entitled to their discharge at the date of the passage of this act, by virtue of the provisions hereof, not more than one shall be discharged on any one day, and the discharges shall be made in the order in which they would have occurred if this act had been passed April, eighteen hundred and sixty-four. [*Amendment, approved March 29, 1878; Amendments 1877-8, 124; took effect from and after April 15, 1878.*]

An Act concerning the payment of the expenses and costs of the trial of convicts for crimes committed in the State prison, and to pay the costs of the trial of escaped convicts, and to pay for the expenses of coronor inquests in said prison.

Approved April 12, 1880; 1880, 43 (Ban. ed. 204).

Costs and expenses of trials of convicts for crimes committed in State prison.

SECTION 1. The costs and expenses of all trials which have heretofore been had in the county in this State where the State prison is situated, for any crime committed by any convict in the State prison, and the costs of guarding and keeping such convict, and the execution of the sentence of said convict by said county, and the costs and expenses of all trials heretofore had for the escape of any convict from the State prison, and the costs and expenses of all coroner inquests heretofore had of any convict at the State prison by the county where said prison has been situated, shall be certified to by the county clerk of said county wherein said trials and inquests have been held to the board of State prison directors for their approval, and after such approval they shall pay the same out of the money appropriated for the support of the State prison to the county treasurer of said county where said trials have been had; "provided, that this act shall not apply to any costs or expenses incurred since January first, eighteen hundred and seventy-three."

SEC. 2. This act shall only apply to cases which have not been settled for by the State.

SEC. 3. This act shall take effect immediately.

14,595.

An Act to define, regulate, and govern the State prisons of California.

Approved April 15, 1880; 1880, 67 (Ban. ed. 243).

State prisons, one at Folsom and one at San Quentin.

SECTION 1. The prison heretofore known as the "Branch State Prison" shall be known hereafter and designated as the "State Prison at Folsom," and all its

finances and other accounts shall be kept separate from those of the State prison at San Quentin, and it shall have an official staff conformable to the laws of the State in relation to State prisons; and it shall be lawful for courts to sentence convicts to the State prison at San Quentin, or to the State prison at Folsom, in their discretion, and the board of directors shall have power to transfer prisoners from either prison to the other one, when, in their judgment, such transfer is for the best interests of the State.

Directors, how appointed—Classification.

SEC. 2. For the government and management of the California State prisons there shall be appointed by the governor, by and with the advice and consent of the senate, on or before the second Monday in January, A. D. eighteen hundred and eighty, five directors, who shall hold their office for the term of ten years from and after said second Monday in January, A. D. eighteen hundred and eighty, and until their successors are appointed and qualified; provided, that said directors so appointed shall, at their first meeting after the passage of this act, so classify themselves by lot, that one of them shall go out of office in two years, one of them in four years, one of them in six years, one of them in eight years, and one of them in ten years after said second Monday in January, A. D. eighteen hundred and eighty; and an entry of such classification shall be made in the minutes of said directors, signed by them, and a duplicate thereof shall be filed in the office of the secretary of the State. And on or before the second Monday in January, A. D. eighteen hundred and eighty-two, and at the same time biennially thereafter, the governor shall appoint, by and with the advice and consent of the senate, one director, whose term of office shall be for a period of ten years, commencing with said second Monday in January. And each director shall subscribe an oath of office, which shall be indorsed on his commission.

Election of president.

SEC. 3. At the first meeting of the directors after the passage of this act, and at their meeting in January, biennially thereafter, they shall elect one of their number president of the board.

Quorum.

SEC. 4. A majority of the board shall constitute a quorum for the transaction of business, but no order of the board shall be valid unless it is entered on the journal, and is concurred in by three members.

Duty of directors.

SEC. 5. It shall be the duty of the directors:

First—To determine the necessary officers of the prisons, other than those of wardens and clerks, specifying their duties severally, and fixing their salaries; to prescribe rules and regulations for the government of the prisons, and to revise and change the same from time to time as circumstances may require; provided, the warden may make such temporary rules and orders as he may deem proper, to be in force until the next meeting of the board. At least three of said directors shall visit the prison in company on the first Tuesday in each month, or as soon thereafter as may be practicable, and examine all the different departments, and audit all claims against the prisons. The directors shall cause an inspection of the prisons to be made by one of their number at least once in each month.

Second—The directors shall meet at the State prisons within the first ten days in January, April, July, and October of each year, and, in addition to the

duties above described, they shall examine the books and accounts of the wardens and clerks.

Third—To enter on their journal the result of all examinations, and of all other official acts, which shall be signed by the members present.

Fourth—On or before the first day of November, A.D. eighteen hundred and eighty, and annually thereafter, to report to the governor the condition of the prisons, together with a detailed statement of their receipts and expenditures, and such suggestions as their interests may require.

Office.

SEC. 6. The board of directors shall have power to establish an office in San Francisco, and employ a secretary.

Appointment of warden.

SEC. 7. The directors shall appoint a warden for each prison, who shall take and subscribe an oath or affirmation faithfully to discharge the duties of his office, and enter into a bond to the State of California in the sum of twenty-five thousand dollars, with two or more sureties, to be approved by the directors and the attorney-general of the State, conditioned for the faithful performance of the duties which may devolve upon him as such officer, and he shall hold his office for four years.

Residence of Wardens—Duties.

SEC. 8. The wardens shall reside at the State prisons to which they are respectively assigned, in houses provided and furnished at the expense of the State; and it shall be their duty:

First—To fill all subordinate positions that may be created by order of the board of directors, by appointment of suitable persons thereto.

Second—To supervise the government, discipline, and police of the prison.

Third—To give all needful directions to the inferior officers, and secure from each a faithful discharge of their several duties.

Fourth—To make frequent examinations into the state of the prisons, the health, condition, and safety of the convicts.

Fifth—To report as often as they may be required to the directors, the number of guards employed, their names and duties, and such other matters as may be required.

Sixth—To have general charge of all departments of the prisons, and of the officers.

Seventh—To bring any and all suits at law or in equity arising in his department that may be necessary to protect the rights of the State in matters connected with the prisons and their management, in the name of the board of State prison directors, and to prosecute the same with the consent of the board of directors.

Appointment of clerk.

SEC. 9. The board of directors shall appoint a clerk for each prison, who shall take an oath of office, and enter into a bond to the State, with sureties satisfactory to the board, in the sum of five thousand dollars, that they will faithfully discharge the duties which devolve upon them. The clerks shall hold their office for the period of four years, unless sooner removed by the board for misconduct, incompetency, or neglect of duty.

Duty of clerk.

SEC. 10. The clerks shall keep the accounts of the prisons to which they are severally appointed in such manner as to exhibit clearly all its financial trans-

actions. A register of convicts shall be kept, in which shall be entered the name of each convict, the crime of which he is convicted, the period of his sentence, from what county, by what court sentenced, his nativity, to what degree educated, at what institution, and under what system; an accurate description of his person, and whether he has been previously confined in a State prison in this or any other State, and if so, when and how he was discharged. The clerks shall also act as secretaries of the board while in session at the prisons.

Contracts—Bids.

SEC. 11. The board of directors are hereby authorized and required to contract for provisions, clothing, medicines, forage, fuel, and all other supplies needed for the support of the prisons for any period of time not exceeding one year, and such contracts shall be limited to bona fide dealers in the several classes of articles contracted for; such contracts shall be given to the lowest bidder, at a public letting thereof, if the price bid is a fair and reasonable one, and not greater than the usual market value and prices. Each bid shall be accompanied by such security as the board may require, conditioned upon the bidder entering into contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond, with good and sufficient sureties, in such sum as the board may direct, and to their satisfaction, that he will faithfully perform his contract. Notice of the time, place, and conditions of the letting of each contract shall be given for at least two consecutive weeks in two daily newspapers printed and published in the City of San Francisco, and one newspaper printed and published in the City of Sacramento. If all the bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise for proposals, and may so continue to renew the advertisement until satisfactory contracts are made, and in the mean time the board may contract with any one whose offer is regarded just and equitable; but no contract thus made shall run more than sixty days, nor in any case extend beyond the public letting. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid made at the same letting for the same class or schedule of articles, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interests of the State; or they may divide the contract between the bidders, as in their judgment may seem proper and right.

Purchase lands for brick making.

SEC. 12. The board of directors shall have power, in their discretion, to purchase any clay lands suitable for brick making that may lie contiguous to the San Quentin prison grounds, not to exceed in value the sum of fifteen thousand dollars.

Employes.

SEC. 13. No person shall be appointed to any office, or be employed in the prisons on behalf of the State, who is a contractor, or the agent or employe of a contractor, or who is interested directly or indirectly in any business carried on therein; and no male person who is not a qualified elector of the State of California shall be appointed by the wardens to any office in or about the prisons, nor shall any one be employed or appointed by virtue of this act who is in the habit of intemperate use of intoxicating liquors. A single act of intoxication shall justify discharge or removal.

Removal of directors.

SEC. 14. The governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, upon proper notice to him or them, accompanied by copies of written charges, he or they having an opportunity to be heard thereon.

Vacancy.

SEC. 15. If the office of director shall become vacant by death, resignation, removal by the governor, or any other cause, the vacancy shall be filled for the unexpired term by the governor, by and with the advice and consent of the senate.

Removal of wardens and clerks.

SEC. 16. The wardens and clerks may be removed by the board of directors at any time for misconduct, incompetency, or neglect of duty; and all other officers and employes may be removed at any time at the pleasure of the warden.

Compensation.

SEC. 17. The directors shall receive no salary or compensation for their services, but shall be paid for traveling and other expenses while engaged in the discharge of their duties, twenty cents per mile for the number of miles actually traveled. The wardens shall receive twenty-four hundred dollars per annum; the clerks fifteen hundred dollars per annum; and all other officers and employes shall receive such compensation as the board of directors may deem just and equitable in each case. And the salaries of all officers and employes shall be paid monthly out of the treasury of the State, on the warrant of the controller.

Money, how drawn.

SEC. 18. No money shall be drawn from the treasury except upon accounts, certificates, or vouchers, duly certified by the wardens, and approved by three directors; and upon a certified copy of final judgment against said directors for costs in any action brought by such directors under this act, but they shall pay no other judgment. Every such account, certificate, or voucher shall be filed with the State board of examiners, and a duplicate thereof with the clerk of the prison.

Revenues paid to warden.

SEC. 19. All revenues of the prisons, unless herein otherwise provided, shall be paid to the wardens, who alone are authorized to receipt for the same and discharge from liability. When any sum of money is paid to the wardens, they shall cause the same to be properly entered on the books by the clerks.

Moneys paid into State treasury.

SEC. 20. The wardens shall balance their cash accounts each month, and report the same to the board at their first meeting thereafter, and on or before the fifteenth of each month pay all such moneys into the State treasury.

Employment of convicts.

SEC. 21. All convicts not employed on contracts may be employed by authority of the board of directors, under charge of the wardens and such skilled foremen as he may deem necessary in the performance of work for the State, or in the manufacture of any article or articles which, in the opinion of the board, may inure to the best interests of the State; and the board of directors are hereby authorized to purchase, from time to time, such tools, machinery, and materials, and to direct the employment of such skilled foremen as may be necessary to carry out the provisions of this section, and to dispose of the

articles manufactured and not needed by the State, for cash, at public auction or otherwise. If by auction, after having first given notice of such sale by advertising the time and place thereof, together with a list of the articles to be sold, in ten consecutive issues of two or more daily newspapers of general circulation published in the City and County of San Francisco. The money received from the sale of all articles so sold shall be paid into the State treasury, by the warden of the prison, to the credit of the fund of said prison.

Rules.

SEC. 22. In the treatment of the prisoners the following general rules shall be observed: Each convict shall be provided with a bed of straw, or other suitable material, and sufficient covering of blankets, and shall be supplied with garments of coarse, substantial material, of distinctive manufacture, and with sufficient plain and wholesome food, of such variety as may be most conducive to good health.

Second—No punishment shall be inflicted, except by the order and under the direction of the wardens.

Third—The warden shall keep a correct account of all money and valuables upon the prisoner when delivered at the prison, and shall pay the amount, or the proceeds thereof, or return the same to the convict when discharged, or to his legal representatives in case of his death; and in case of the death of such convict without being released, if no legal representative shall demand such property within five years, the same shall be paid into the State prison fund.

Fourth—The rules and regulations prescribing the duties and obligations of the prisoners shall be printed and hung up in each cell and shop.

Fifth—Each convict, when he leaves the prison, shall be supplied with the money taken from him when he entered, and which he has not disposed of, together with any sum which may have been earned by him for his own account, allowed to him by the State for good conduct or diligent labor, or may have been presented to him from any source; and in case the prisoner has not funds sufficient for present purposes, he shall be furnished with five dollars in money, a suit of clothes costing not more than ten dollars, and a half-fare ticket to the place where sentenced, if the prisoner desires to return there, or to any other place of the same cost; and he shall be entitled, if he so elect, to immunity from having his hair cut, or from being shaved, for three calendar months immediately prior to his discharge. It shall not be lawful for the officers of the prison to furnish, or permit to be furnished, to any one, for publication, the name of any prisoner about to be discharged. When the warden, and such other officers as may be designated by the directors to act with him in such cases, shall be of opinion that any convict is insane, they shall make proper examination, and if they remain of the opinion that such person is insane, the warden shall certify the fact to the superintendent of one of the State asylums for the insane, and shall forthwith send such convict to said asylum for care and treatment. It shall be the duty of the warden, also, to send to the directors a copy of such certificate, and thereafter a statement as to his subsequent acts regarding the said insane convict. And it shall be the duty of the superintendent of the insane asylum to receive such insane convict and keep him until cured. It shall be his duty, upon the receipt of such insane convict, to notify the directors of the fact, giving name, date, and where from, and from whose hands received. When, in the opinion of the superintendent, such insane convict is cured of insanity, it shall be his duty to immediately notify the directors thereof; and it shall be his duty, also, to

notify the warden of the prison from whence he was received, who shall immediately send for, take, and receive the said convict back into the prison, the time passed at the asylum counting as a part of such convict's sentence. Before discharging any convict who may be insane at the time of the expiration of his sentence, the warden shall first give notice, in writing, to a judge of a superior court of the county in which the State prison may be located, over which he has control, of the fact of such insanity; whereupon said court shall forthwith make an order, and deliver the same to the sheriff of said county, commanding him to remove such insane convict and take him before said court. Upon the receipt of such order, it shall be the duty of said sheriff, to whom it is directed, to execute and return the same forthwith to the court by whom it was issued, and thereupon the said court shall cause proper examination to be made by medical experts, and if it shall satisfactorily appear that such convict is insane, said court shall order him to be confined in one of the insane asylums. The sheriff shall receive the same compensation as for transferring a prisoner to the State prison, and to be paid in the same manner. If any judge, after having been so notified by the warden, shall neglect to cause such order to be made as herein provided, or any such sheriff shall neglect to remove such insane convict, as required by the provisions of this section, it shall be the duty of the warden to cause such insane convict to be removed before a superior court of a county in which the State prison is located, in charge of an officer of the prison, or other suitable person, for the purpose of examination; and the cost of such removal shall be paid out of the State treasury, in the same manner as when removed by the sheriff as herein provided.

Labor of convicts—Credits.

SEC. 23. The board of State prison directors of this State shall require of every able-bodied convict confined in a State prison as many hours of faithful labor, in each and every day during his term of imprisonment, as shall be prescribed by the rules and regulations of the prison; and every convict faithfully performing such labor, and being in all respects obedient to the rules and regulations of the prison, or if unable to work, yet faithful and obedient, shall be allowed from his term, instead and in lieu of the credits heretofore allowed by law, a deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of said term; provided, that any such convict who shall commit an assault upon his keeper, or any foreman, officer, or convict, or otherwise endanger life, or by any flagrant disregard of the rules of the prison, or any misdemeanor whatever, shall forfeit all deductions of time earned by him for good conduct before the commission of such offense; such forfeiture, however, shall only be made by the board of directors, after due proof of the offense, and notice to the offender; nor shall such forfeiture be imposed when a party has violated any rule or rules without violence or evil intent, of which the directors shall be the sole judges. The name of no convict who attempts to escape, after the passage of this act, shall be sent by the State prison officials to the governor for the credits herein provided.

United States criminals.

SEC. 24. All criminals sentenced to the State prisons by the authority of the United States shall be received and kept according to the sentence of the court by which they were tried, and the prisoners so confined shall be subject, in all respects, to the same discipline and treatment as though committed under the

laws of this State. The wardens are hereby authorized to charge and receive from the United States, for the use of the State, an amount sufficient for the support of each prisoner, the cost of all clothing that may be furnished, and one dollar per month for the use of the prisoner. No other or further charge shall be made by any officer for or on account of such prisoners.

Contract labor.

Sec. 25. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation by the State board of prison directors, nor shall they let out any such labor prior to January first, eighteen hundred and eighty-two, by contract extending beyond such date; provided, that after the passage of this act, no skilled convict labor shall be let or contracted out at a price less than one dollar per day for each convict; provided, further, that this section shall not apply to contracts heretofore entered into.

Gas and water.

Sec. 26. The board of directors shall have power to contract for the supply of gas and water for said prisons, upon such terms as said board shall deem to be for the best interest of the State, or to manufacture gas or furnish water themselves, at their option.

No compensation other than that prescribed by the directors.

Sec. 27. No officer or employe shall receive, directly or indirectly, any compensation for his services other than that prescribed by the directors; nor shall he receive any compensation whatever, directly or indirectly, for any act or service which he may do or perform for or on behalf of any contractor, or agent, or employe of a contractor. For any violation of the provisions of this section, the officer, agent, or employe of the State shall be discharged from his office or service; and every contractor, or employe, or agent of a contractor engaged therein, shall be expelled from the prison grounds, and not again permitted within the same as a contractor, agent, or employe.

Not to make presents to convicts without permission.

Sec. 28. No officer or employe of the State, or contractor or employe of a contractor, shall, without permission of the board of directors, make any gift or present to a convict, or receive any from a convict, or have any barter or dealings with a prisoner. For every violation of the provisions of this section the party engaged therein shall incur the same penalty as prescribed in section twenty-seven.

Not to be interested in contracts, etc.

Sec. 29. No officer or employe of the prison shall be interested, directly or indirectly, in any contract or purchase made or authorized to be made by any one for or on behalf of the prisons.

Transportation of prisoners.

Sec. 30. Every cost bill shall be presented to the wardens when a prisoner is delivered at the prisons. The wardens shall certify on it that the prisoner has been received, and the bill shall then be audited, and if correct shall be allowed by the board of directors, and paid out of any moneys in the State treasury appropriated for that purpose.

Annual reports.

Sec. 31. There shall be printed annually, for the use of the prisons, five hundred copies of the annual report of the board of directors, and the clerk

shall annually transmit to each of the State prisons in the United States one copy of such report.

Bonds.

SEC. 32. All the bonds of officers and employes under this act shall be deposited with the secretary of State.

Shops destroyed by fire may be rebuilt.

SEC. 33. If any of the shops or buildings in which convicts are employed are destroyed in any way, or injured by fire, or otherwise, they may be rebuilt or repaired immediately, under the direction of the board of directors, by and with the advice and consent of the governor, attorney-general, and secretary of State, and the expenses thereof paid out of any fund in the State treasury not otherwise appropriated by law.

Report to governor.

SEC. 34. The board of directors must report to the governor from time to time the names of any and all persons confined in the State prisons who, in their judgment, ought to be pardoned out and set at liberty on account of good conduct, or unusual term of sentences, or any other cause, which, in their opinion, should entitle such prisoner to pardon.

SEC. 35. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 36. This act shall take effect immediately.

Statutes in Force.

Agriculture.

An Act to provide for the management and control of the State agricultural society by the State.

Approved April 15, 1880; 1880, 49 (San. ed. 212).

15,001. *State institution.*

SECTION 1. The State agricultural society is hereby declared to be a State institution.

Board, how appointed—Vacancies.

SEC. 2. Within ten days after the passage of this act, the governor shall appoint twelve resident citizens of the State who shall, when organized, constitute a State board of agriculture, who shall, except as hereinafter provided, hold office for the term of four years, and until their successors are appointed and qualified. Vacancies occurring from any cause in the board shall be filled by appointment of the governor for the unexpired term of the office vacated.

Organization—Officers.

SEC. 3. Within ten days after their appointment, the persons so appointed shall qualify, as required by the constitution, and shall meet at the office of the State agricultural society and organize by the election of one of their number as president of the board and said society, who shall hold said office of president for the term of one year, and until his successor is elected and qualified. The board shall also elect a secretary and treasurer, not of their number, who shall each hold office at the discretion of the board.

Terms.

SEC. 4. At the same meeting the members of the board shall, by lot or otherwise, classify themselves into four classes of three members each. The terms of office of the first class shall expire at the end of the first fiscal year; of the second class, of the second year; of the third class, of the third year; of the fourth class, at the end of the full term of four years. The fiscal year shall be from the first of February to the first of February.

Powers and duties.

SEC. 5. The State board of agriculture shall be charged with the exclusive management and control of the State agricultural society as a State institution; shall have possession and care of its property, and be intrusted with the direction of its entire business and financial affairs. They shall define the duties of the secretary and treasurer, fix their bonds and compensation, and shall have power to make all necessary changes in the constitution and rules of the society; to adapt the same to the provisions of this act, and to the management of the society, its meetings, and exhibitions. They shall provide for an annual fair or exhibition by the society of all the industries and industrial products of the State, at the City of Sacramento; provided, that in no event shall the

- State be liable for any premium awarded or debt created by said board of agriculture.

Same.

SEC. 6. The board shall have power to appoint all necessary marshals and police to keep order and preserve peace at the annual fairs of the society, and the officers so appointed shall be vested with the same authority for the preservation of order and peace, on the grounds and in the buildings of the society, that executive peace officers are vested with by law.

Report to governor.

SEC. 7. Said board shall use all suitable means to collect and disseminate all kinds of information calculated to educate and benefit the industrial classes, develop the resources, and advance the material interests of the State, and shall, on or before the first day of February of each year, report to the governor a full and detailed account of their transactions, statistics, and information gained, and also a full financial statement of all funds received and disbursed. They shall also make such suggestions and recommendations as experience and good policy may dictate for the improvement and advancement of the agricultural and kindred industries.

Printing reports.

SEC. 8. The superintendent of State printing shall, each year, print and bind in cloth four thousand volumes of said transactions, and deliver the same to said board of agriculture for distribution and exchange. He shall also do such job printing as said board may require to carry out the provisions of this act.

County and district agricultural societies.

SEC. 9. The directors or boards of managers of each county and district agricultural society or association, and of each county, district, or State horticultural and stock-breeding association or society, organized and acting under the laws of this State, shall report annually, on or before the first day of April, to the State board of agriculture, the name and post-office address of each officer of such society or association; and on or before the first day of December shall report to said board of agriculture the transactions of said society, including the premiums offered, the list of stock and articles exhibited, and the premiums paid; the amount of receipts and expenditures for the year, the new industries inaugurated; and any and all facts and statistics showing the development and extent of the industries, products, and resources of the county or district embraced within the management of such society or association; provided that the provisions of this act shall not apply to any board of commissioners or other body organized under the laws of this State, the object of which is to promote vinicultural industries, unless such board or body shall voluntarily request the privilege of making such reports as are called for by this act, in which case such board or body shall enjoy equal privileges as are accorded to other institutions devoted to agriculture.

To furnish blanks, etc.

SEC. 10. To facilitate such reports, the State board of agriculture shall have prepared, and shall furnish such societies with necessary schedules and blanks for such reports, and said State board shall include such reports from societies and associations, or so much thereof as they may deem advisable, in their report to the governor.

To notify governor of organization and report vacancies.

SEC. 11. When said State board of agriculture shall have been organized and classified as provided herein, the secretary of the board shall report such organization and classification to the governor. He shall also report any vacancy that may occur in said board at any time.

SEC. 12. All laws and parts of laws in conflict with this act are hereby repealed.

SEC. 13. This act shall take effect and be in force from and after its passage.

An Act to form agricultural districts, to provide for the organization of agricultural associations therein, and for the management and control of the same by the State.

Approved April 15, 1830; 1880, 62 (San. ed. 238).

15,022. *Districts.*

SECTION 1. The Counties of Alameda, Contra Costa, and San Francisco, shall constitute Agricultural District No. 1.

SEC. 2. The Counties of San Joaquin, Calaveras, Fresno, Kern, Merced, Mariposa, Stanislaus, Tulare, and Tuolumne, shall constitute Agricultural District No. 2.

SEC. 3. The Counties of Sutter, Yuba, Butte, Colusa, Tehama, Yolo, and Sacramento, shall constitute Agricultural District No. 3.

SEC. 4. The Counties of Sonoma, Marin, Solano, Napa, and Lake, shall constitute Agricultural District No. 4.

SEC. 5. The Counties of Santa Clara and San Mateo shall constitute Agricultural District No. 5.

SEC. 6. The Counties of Los Angeles, San Diego, San Bernardino, Santa Barbara, Ventura, and Inyo, shall constitute Agricultural District No. 6.

SEC. 7. The Counties of Monterey, Santa Cruz, San Luis Obispo, and San Benito, shall constitute Agricultural District No. 7.

SEC. 8. The Counties of Nevada, Placer, El Dorado, Amador, Alpine, and Mono, shall constitute Agricultural District No. 8.

SEC. 9. The Counties of Mendocino, Humboldt, and Del Norte, shall constitute Agricultural District No. 9.

SEC. 10. The Counties of Siskiyou, Trinity, and Shasta, shall constitute Agricultural District No. 10.

SEC. 11. The Counties of Plumas, Lassen, Modoc, and Sierra, shall constitute Agricultural District No. 11.

Who may form—Title and powers.

SEC. 12. Any fifty or more persons representing a majority of the counties within any of the districts above constituted, may form an association for the improvement of the material industries within such district, and when so formed the association shall be known and designated by the name of — Agricultural Association, and by such name and style shall have perpetual succession, and shall have power and authority to contract and be contracted with, to sue and be sued, to have and use a common seal, to purchase and hold and lease real estate, with such buildings and improvements as may be erected thereon, and may sell and lease and dispose of the same at pleasure. The said real estate shall be used by such association for the purposes of holding exhibitions of horses, cattle, and other stock, of the agricultural, horticultural, viticultural, mechanical, manufacturing, and domestic products of such district, with view to the improvement of all the industries in the same.

Officers.

SEC. 13. The officers of such association shall consist of eight directors, who shall constitute a district board of agriculture for District Number —, a president, who shall be one of their number, and a secretary and treasurer not of their number.

Governor to appoint members.

SEC. 14. Within ten days after the formation of an agricultural association within any of the districts above constituted, in accordance with the provisions of this act, and notice of such formation to the governor, the governor shall appoint eight resident citizens of such district as members of a district board of agriculture for said district, whose term of office shall be four years, except as hereinafter provided.

Organization.

SEC. 15. Within ten days after their appointment, the persons so appointed shall qualify as required by the constitution, and shall meet at a place within the district and organize by the election of one of their number as president of the board and association, who shall hold said office of president one year, and until his successor is elected; they shall also elect a secretary and treasurer.

Terms.

SEC. 16. At the same meeting the members of the board shall, by lot or otherwise, classify themselves into four classes of two members each. The terms of office of the first class shall expire at the end of the first fiscal year; of the second class, of the second fiscal year; of the third class, of the third fiscal year, and of the fourth class, at the end of the full term of four years. The fiscal year shall be from December first to December first.

State institution.

SEC. 17. Each association so formed and organized is hereby declared and shall be recognized a State institution, and the board so appointed and qualified shall have the exclusive control and management of such institution for and in the name of the State, and shall have the possession and care of all the property of the association, and shall fix the terms of office, and the bonds of the secretary and treasurer, and determine their salaries and duties. They shall have power to make all necessary by-laws, rules, and regulations for the government of the association and the management of its prudential and financial affairs. They shall provide for an annual fair or exhibition by the association of all the industries and industrial products in the district at such time and place as they deem advisable; provided, that no district fair shall be held in any of the districts at the same time of the State fair; and provided further, that the State shall in no event be liable for any premium offered, or award, or for any debt contracted by any district board of agriculture, or agricultural association.

Report to State board of agriculture.

SEC. 18. When any district board of agriculture shall have been classified and organized as herein provided, the secretary of the board shall report such classification and organization to the State board of agriculture; he shall also report the same to the governor, and shall report any vacancy that may occur in the board to the governor, who shall fill the same by appointment for the unexpired term.

SEC. 19. All laws and parts of laws in conflict with this act are hereby repealed.

SEC. 20. This act shall take effect from and after its passage.

An Act entitled an act to amend "An Act concerning agricultural societies," approved March 12, 1859.

Approved February 15, 1878; 1877-8, 84.

[This act amended section 3 of the act referred to in the title.]

An Act for the encouragement of agriculture and other industries.

Approved March 18, 1878; 1877-8, 332.

[This act made appropriations to the State and various district and county agricultural societies; required them to make reports to the State agricultural society, and required the State agricultural society to report to the governor.]

An Act making an appropriation for the benefit of the Southern California horticultural society.

Approved April 1, 1878; 1877-8, 968.

[This act appropriated \$1,250 a year for two years to the society named.]

Alameda County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,033.

Giving supervisors control of bridge over San Antonio Estuary, 1877-8, 3.
Concerning special election in fourteenth senatorial district on January 22, 1877, 1877-8, 22.
To transfer certain funds and pay certain warrants, 1877-8, 59.
Amending act of February 4, 1874, for erection of county buildings, 1877-8, 69.
To incorporate Town of Alameda, 1877-8, 89.
Relating to certain duties of constables, 1877-8, 105.
Relative to executions from justices' courts, 1877-8, 106.
To fix compensation of road overseers, 1877-8, 109.
Confirming resolution of supervisors concerning Berkeley Horse Railroad Company, 1877-8, 136.
To provide for transfer of moneys by treasurer to and from state treasury, 1877-8, 170.
For relief of T. Mulloy, road overseer of Brooklyn road district, 1877-8, 251.
To regulate salary of Brooklyn road district overseer, 1877-8, 251.
In relation to collection of licenses, 1877-8, 255.
To pay claim of E. Kimball, 1877-8, 328.
Providing compensation for assessor of Oakland Township, 1877-8, 537.
To prohibit the destruction of fish, 1877-8, 598.
To provide funds for school department, 1877-8, 599.
For establishment of receiving hospital, 1877-8, 640.
Fixing pay of supervisors, 1877-8, 736.
Providing for road on Bay Farm Island, 1877-8, 848.
Repealing "West Side Irrigation District" acts of 1876, 1877-8, 887.
To incorporate the Town of Berkeley, 1877-8, 888.
Relative to powers of sheriff in attachment cases, 1877-8, 922.
For erection of building for library and art gallery at University, 1877-8, 930.
For payment of outstanding bonds, 1877-8, 942.
Defining Third Judicial District, 1877-8, 944.
Fixing salaries of under sheriff, deputy sheriffs, and county jailers, 1877-8, 950.
In relation to certain streets in Town of Alameda, 1877-8, 964.
Repealing act of 1876 relative to executions from justices' courts, 1880, 19 (San. ed. 62).
For erection of buildings for Deaf and Dumb and Blind Asylum, 1880, 37 (San. ed. 180).

15,034.

CITY OF OAKLAND,

Relating to plazas conveyed for county buildings, 1877-8, 69.
Confirming ordinance abandoning certain streets in East Oakland, 1877-8, 71.
Supplemental to act of April 3, 1876, for improvement of Oakland harbor, 1877-8, 113.
For relief of school department, 1877-8, 188.
Appropriation of moneys to certain benevolent societies, 1877-8, 253.
Enabling city to acquire and maintain public water works, 1877-8, 427.
Providing compensation for assessor, 1877-8, 557.
To provide for opening of streets, 1877-8, 614.
Providing superintendent of public schools clerical assistance, 1877-8, 735.
Amending act districting city into wards, 1877-8, 843.
For relief of Oakland Guard, 1877-8, 932.

Alpine County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,036.

Authorizing tax for payment of grand and trial jurors, 1877-8, 215.
To regulate traveling fees of sheriff and constables, 1877-8, 372.
Repealing act of March 23, 1876, extending time for delinquent tax sale, 1877-8, 783.

Amador County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,038.

To change name of Fiddleton to Oleta, 1877-8, 109.
To prevent trespassing of goats, 1877-8, 536.
To levy tax for bridge purposes in Township No. 1, 1877-8, 560.
To provide a new great register, 1877-8, 693.
For construction of public roads 1877-8, 703.
Providing for railroad from Ione to Sutter Creek or Jackson, 1877-8, 841.
Declaring a certain portion of Amador and Nevada wagon road a toll-road, 1877-8, 968.
To prevent hogs and goats running at large in Plymouth, 1877-8, 1020.

Artesian Wells.

15,040.

An Act to regulate the use of artesian wells, and to prevent the waste of subterranean waters in this State.

Approved March 9, 1878; 1877-8, 195.

What artesian wells declared nuisances—Misdemeanor.

SECTION 1. Any artesian well which is not capped, or furnished with such mechanical appliance as will readily and effectively arrest and prevent the flow of water from such well, is hereby declared to be a public nuisance. The owner, tenant, or occupant of the land upon which such well is situated, who causes, permits, or suffers such public nuisance, or suffers or permits it to remain or continue, is guilty of a misdemeanor.

Same.

SEC. 2. Any person owning, possessing, or occupying any land upon which is situated an artesian well, who causes, suffers, or permits the water to unnecessarily flow from such well, or to go to waste, is guilty of a misdemeanor.

Artesian well defined.

SEC. 3. An artesian well is defined, for the purposes of this act, to be any artificial well, the waters of which will flow continuously over the natural surface of the ground adjacent to such well at any season of the year.

Waste defined.

SEC. 4. Waste is defined, for the purpose of this act, to be the causing, suffering, or permitting the waters flowing from such well to run into any river, creek, or other natural water-course or channel, or into any bay, lake, or pond, or into any street, road, highway, or upon the land of any person other than that of the owner of such well, or upon public lands of the United States or of the State of California, unless it be used thereon for the purposes and in the manner that it may be lawfully used upon the land of the owner of such well; provided, that this section shall not be so construed as to prevent the use of such waters for the proper irrigation of trees standing along or upon any street, road, or highway, or for ornamental ponds or fountains, or the propagation of fish.

Proceedings for misdemeanor.

SEC. 5. Any person violating any of the provisions of this act may be proceeded against for a misdemeanor in any justice's court of the county in which such well is located, and shall, upon conviction, be fined for each offense not less than ten or more than fifty dollars. There shall also, upon conviction had, in addition to such fine, be taxed against such party the cost of prosecution. Such fine and costs may be collected as in other criminal cases, and the justice may also issue an execution upon the judgment therein rendered, and the same may be enforced and collected as in civil cases.

Duty of supervisors.

SEC. 6. It shall be the duty of the supervisors or road masters, on complaint of any citizen within their respective districts, and for that purpose may at all proper times enter upon the premises where such well is situated; and it shall be his duty to institute, or cause to be instituted, criminal action for all violations of the provisions of this act, or for all public offenses defined in this act committed within such district.

Repeal.

SEC. 7. An act entitled "An Act to regulate the use of artesian wells and to prevent the waste of subterranean waters in Santa Clara and Los Angeles Counties," approved March eighteenth, eighteen hundred and seventy-six, and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. [8.] This act shall not apply to artesian wells in the county of San Bernardino.

SEC. 9. This act shall take effect and be in force on and after the first day of July, A. D. eighteen hundred and seventy-eight.

Bank Commissioners.

An Act creating a board of bank commissioners, and prescribing their duties and powers.

Approved March 30, 1878; 1877-s, 740.

15,041. *Commissioners appointed—Who qualified.*

SECTION 1. On or before the fifteenth day of May, A. D. eighteen hundred and seventy-eight, the governor shall appoint three competent persons, one of whom shall be an expert of accounts, to be styled bank commissioners, who shall hold office for a period of four years, and until their successors are appointed and qualified, and no two commissioners to be appointed under this act shall be residents of the same county. The persons who are so appointed shall have no official connection with, nor be in the employ of any saving bank, or bank, or banking company, or banking society, nor shall they, during their term of office, own or be interested in the stock or other property thereof. Said commissioners shall have their office in the city of San Francisco.

Official bonds.

SEC. 2. The bank commissioners, before entering upon the duties of their office, must each execute an official bond in the sum of twenty thousand dollars, and take the oath of office, all as prescribed by the Political Code for State officers in general.

Duties—License—Reports.

SEC. 3. The duties of the bank commissioners shall be, within sixty days after their qualification, to prepare and furnish to every saving bank, bank, and banking company incorporated under the laws of this State, or any other State or country, and doing business in this State, applying therefor in writing, a license, in the form to be prescribed by them, authorizing such corporations to use the name and to transact the business of a savings bank, bank, or banking company, for one year from the date of issuance thereof; provided, that such license may be issued at any time after said sixty days, subject to the disqualification mentioned in section seven of this act; to receive and place on file in their office the semi-annual reports required to be made by savings banks, or banks, or banking corporations, by this act; to prepare and furnish, on demand, to savings banks' officers, and the officers of banks, or banking corporations, blank forms for such statements or reports as may by law be required of them; to make, on or before the thirtieth day of June, in each year, a report to the governor of this State, containing a tabulated statement and synopsis of the several reports which have been filed in their office since their last report, and any other proceedings had or done by them under this act, showing generally the condition of the savings bank, or banking business

and interests in this State, and such other matters as, in their opinion, may be of interest to the public, with a detailed statement, verified by their oaths, of all moneys and fees of office received by them during the same period.

Visit and examine banks.

SEC. 4. It shall be the duty of one or more of the bank commissioners, as designated by the commissioners, once in six months, and as often as in their judgment may be deemed necessary, without previous notice, to visit and to make personally a full examination of each bank, saving bank, saving and loan society, or other society, association, company, or institution incorporated under the laws of this State, or any other State or country, and doing business in this State, for the accumulation and investment of funds and savings, or any trust company receiving any valuable thing in trust, or money on special deposit, or any person publicly receiving money on deposit for safe keeping; to inspect all books, papers, notes, bonds, or evidence of debt of such corporations, and all securities; to ascertain the condition of every such corporation, its solvency, its ability to fulfill all its obligations, and report its condition to the attorney-general as soon as may be after such examination.

Power to examine officers.

SEC. 5. Such commissioners must examine, under oath, any of the officers, agents, and servants of any such corporation or person, in relation to the affairs and condition of such corporation or person, and may administer such oath personally, and whoever shall neglect or refuse, after demand and notice thereof, and without justifiable cause, to appear, or testify, under oath, before the said commissioners in the discharge of their duties, shall be deemed guilty of a misdemeanor, and on conviction thereof be punished by a fine not exceeding five thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Insolvent corporations—Commissioner to report.

SEC. 6. If any bank commissioner shall have knowledge of the insolvency or unsafe condition of any corporation mentioned in this act, and shall neglect to report the same, in writing, to the attorney-general, as required by this act, he shall, on conviction thereof, be punished by a fine not exceeding ten thousand dollars nor less than five thousand dollars, or by imprisonment in the county jail not less than one year nor more than two years, or by both such fine and imprisonment, and his office shall be declared vacant by the governor, and a successor be appointed for the unexpired term.

Banks must procure license.

SEC. 7. No corporation shall, after the expiration of the time in that behalf limited by section three, use the name or transact the business of a savings bank, or bank, or banking corporation, without first procuring from the bank commissioners the license provided for by this act; and any corporation violating this provision shall forfeit the sum of one hundred dollars per day during the continuance of the offense; and any person who enters upon, engages in, or carries on, or in any manner attends to the business or management of a savings bank, or bank, or bank corporation, doing business without a license, after the expiration of such time, whether as manager, principal, agent, officer, employe, or otherwise, shall forfeit the sum of one hundred dollars for every day he so enters upon, engages in, or carries on, or attends to such business, and any violation of this section is also hereby declared to be a misdemeanor.

License received on what condition.

SEC. 8. No savings bank shall receive the license in this act provided for; unless at least fifty per cent. of all its loans shall be secured by first mortgage, or other prior lien, upon real estate situate within this State; such loans, at the date when made, hereafter, not to exceed sixty per cent. of the market value of the security, except when made for the purpose of facilitating the sale of property owned by the corporation. And it shall be unlawful for any savings and loan society, or savings bank, to purchase, invest, or loan its capital, or the money of its depositors, or any part of either, in mining shares or stocks. Any president or managing officer who knowingly consents to a violation of the above provision shall be deemed guilty of a felony.

Semi-annual reports.

SEC. 9. Every savings bank, or bank, or banking corporation, doing business in this State, if incorporated before the passage of this act, shall, twice in every year, to wit, within thirty days after the expiration of its semi-annual fiscal term, and every savings bank, or bank, or banking corporation, hereafter to be incorporated, shall, twice in each year, to wit, on the twentieth day of January and the twentieth day of July, make a report, in writing, to the bank commissioners, verified by the oath of its president and secretary, or cashier, or its two principal officers; and the semi-annual fiscal term of the savings banks, or banks, or banking corporations, hereafter incorporated, shall expire on the last day of June and the last day of December, in each year. Such report shall show the actual financial condition of the bank making such report, upon the thirtieth day of June and thirty-first day of December, of each year, by stating—

First—The amount of its capital stock, and the number of shares into which it is divided.

Second—The names of its directors, and the number of shares of stock held by each.

Third—The total amount actually paid, in coin, by stockholders for capital stock, and the total amount of reserve fund, if any.

Fourth—The total amount due to depositors.

Fifth—The total amount and character of any other liabilities it may have.

Sixth—The amount at which the lot and building, occupied by the bank for the transaction of its regular business, stands debited on its books, together with the market value of all other real estate held, whether acquired in settlement of loans or otherwise; the amount at which it stands debited on the bank books; in what county situated, and in what name the title is vested, if not in the name of the corporation itself.

Seventh—The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also, specifying the name of the person in whose name the property is held in trust, or as security, in case it is held in any name other than that of the savings bank, and when the instrument creating the security does not of itself disclose the name of the savings bank.

Eighth—The amount invested in bonds, designating each particular class, and the amount thereof.

Ninth—The amount loaned on stocks and bonds, designating each particular class, and the amount thereof.

Tenth—The amount of money loaned on other securities, with a particular designation of each class, and the amount loaned on each.

Eleventh—The actual amount of money on hand or deposited in any other bank or place, with the name of the place where deposited, and the amount in each place.

Twelfth—Any other property held or any amount of money loaned, deposited, invested, or placed, not otherwise herein enumerated, with the place where situate, and the value of such property, and the amount so loaned, deposited, or placed.

The oaths of the officers to the statements above required shall state that they, and each of them, have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true; and any willfully false statement in the premises shall be perjury, and shall be punished as such.

Penalty.

SEC. 10. Any saving bank, or bank, or bank incorporation, failing to furnish to the bank commissioners the report required by this act, within the time required herein, shall forfeit the sum of one hundred dollars per day during the time of such default.

Proceedings against unsafe corporations.

SEC. 11. If such commissioners, on examination of the affairs of any corporation mentioned in this act, shall find that any of said corporations or persons have been guilty of violating its charter or law, or is conducting business in an unsafe manner, they shall, by an order addressed to the corporation so offending, direct discontinuance of such illegal and unsafe practices and a conformity with the requirements of its charter and of law, and with safety and security in its transactions; and if any of said corporations or persons shall refuse or neglect to comply with such order, or whenever it shall appear to these commissioners that it is unsafe for any of the said corporations to continue to transact business, they shall communicate with the attorney-general, who shall immediately commence suit in the proper court against such corporation to enjoin and prohibit it from transacting any further business; and upon the hearing of the case, if the judge of the court where the case is tried shall be of the opinion that it is unsafe for the parties interested for such corporation or person to continue to transact business, and that such corporation or person is insolvent, he shall issue the injunction applied for by the said commissioners, who shall cause said injunction to be served according to law; and he shall further direct said commissioners to take such proceedings against such corporation or person as may be decided upon by its creditors.

Salary of commissioners.

SEC. 12. The bank commissioners shall each receive a salary of three thousand dollars, and necessary traveling expenses, not to exceed five hundred dollars for each commissioner per year, to be audited by the State controller and paid by the State treasurer in the same manner as the salaries of other State officers.

Report required.

SEC. 13. The bank commissioners shall make a general report of the business of their office to the legislature, at each session, during the first week of the session.

Commissioners to appoint clerk—Office hours of.

SEC. 14. The bank commissioners shall have power to appoint a clerk, at a salary of one hundred and fifty dollars per month. The said commissioners shall keep their office open for business from nine o'clock A. M. until three

o'clock P. M., every day except non-judicial days. They shall procure rooms necessary for their office, at a rent not to exceed seventy-five dollars per month, and may provide a safe and necessary furniture therefor, at an expense not exceeding five hundred dollars. They may also provide stationery, fuel, and other conveniences necessary for the transaction of duties, not exceeding in the aggregate the sum of two hundred dollars per annum. All expenditures authorized in this section shall be audited and paid in the same manner as the salary of the commissioners.

Semi-annual report.

SEC. 15. The semi-annual reports provided for by this act shall be filed and kept on file by the bank commissioners, in their office, and shall be open to the inspection of the public during their office hours.

Assessments against banks.

SEC. 16. To meet the annual expenses provided for by this act, the bank commissioners shall receive in advance, in gold coin, from each savings bank, or bank, or banking corporation applying for a license, its pro rata amount of the salaries, and all other necessary expenses of the commissioners, such amount to be raised by an assessment on the amount of deposits of such bank. But in estimating the amount to be paid by each savings bank, bank, or banking corporation, on applying for its first license under this act, the amount as shown by its last semi-annual statement, published for the information of its depositors, shall be taken as the amount on deposit with it. They shall receive, for furnishing copies of papers, statements, and reports filed in their office, twenty cents per folio of one hundred words, and for certifying copies, one dollar, to be paid for by the parties applying for the same. They shall pay to the State treasurer every month, all such amounts received by them under the provisions of this act, to be paid into the general fund of the State. The commissioners may recover the amounts assessed against said banks in the name of the people, and must pay the same to the State treasurer as aforesaid.

Commissioners to keep books.

SEC. 17. The bank commissioners shall keep proper books of record of all acts, matters, and things done by them under the provisions of this act, which shall be open to the inspection of the public during their office hours.

Subpenas to be issued.

SEC. 18. The bank commissioners may issue subpenas for witnesses to attend and testify before them, on any examination by this act authorized, which must be served, obeyed, and enforced as provided in the Code of Civil Procedure for civil cases; the commissioners to issue attachments, and impose the penalty for disobedience, and the witnesses may be punished as provided in the Penal Code.

Commissioners to receive money.

SEC. 19. The bank commissioners may sue for and recover, in the name of the people, in any court of competent jurisdiction, all sums of money which become due, payable, or forfeited by any of the provisions of this act.

Commissioners to deliver property.

SEC. 20. The commissioners shall, upon the expiration of their term of office, deliver to their successors, or if there be none, then to the controller of State, all property, books, reports, and papers of every description pertaining to their office.

SEC. 21. All acts are hereby repealed in so far as they are inconsistent with the provisions of this act.

SEC. 22. This act shall take effect and be in force from and after the fifteenth day of May, A. D. eighteen hundred and seventy-eight.

Butte County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,042.

Amending act of April 3, 1876, relating to roads and highways, 1877-8, 18.
Amending act of March 27, 1876, relating to debt due upon road fund, 1877-8, 34.
Authorizing Dockery school district to repay certain moneys, 1877-8, 50.
Relating to salaries of sheriff and district attorney, 1877-8, 248.
Making sheriff license collector, 1877-8, 287.
For payment of interest upon certain warrants, 1877-8, 323.

Authorizing Dockery school district to issue bonds, 1877-8, 347.
In relation to roads and highways, 1877-8, 402.
Amending act incorporating town of Chilco, 1877-8, 466.
Concerning fees of sheriff, 1877-8, 567.
Regulating fees of justices of the peace, 1877-8, 688.
To provide a new great register, 1877-8, 693.
To supply Oroville with water for fire purposes, 1877-8, 796.

Calaveras County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,044.

Amending act of March 20, 1874, relating to collection of poll taxes, 1877-8, 35.

Fixing salary of superintendent of public schools, 1877-8, 204.
Regulating fees of constables, 1877-8, 592.

Chinese.

15,045.

An Act to ascertain and express the will of the people of the State of California upon the subject of Chinese immigration.

Approved December 21, 1877; 1877-8, 3.

[This act provided for a vote by the people of the State, at the next general or special State election, expressive of their will as to the continuance or prohibition of Chinese immigration, and required the governor to make out a memorial, setting forth the question submitted and the result, and send copies thereof to the president, vice-president, each cabinet minister, senator and representative at Washington, and the governor of each State and Territory.]

An Act to protect public health from infection caused by exhumation and removal of the remains of deceased persons.

Approved April 1, 1878; 1877-8, 1050.

[This act seems to have been intended principally as a blow at the Chinese, who were accustomed to remove the bones of their dead to China. It is, however, general in its application. The act will be found given in full, ante, 13, 297.]

[In addition to the foregoing acts, the legislature of 1877-8 adopted four anti-Chinese resolutions. The first was a request of our senators and representatives to secure the speedy passage of a bill to restrict Chinese immigration by levying a per capita tax of \$250 upon each immigrant, adopted December 11, 1877; 1877-8, 1056. The second was a request for a modification of all treaties so that such immigration might not be permitted, adopted December 21, 1877; 1877-8, 1058. The third was a request that no further subsidies should be granted to any steamship company running vessels between California and China, adopted February 2, 1878; 1877-8, 1062. And the fourth was a further request for a change in existing treaties so as to stop the immigration of Chinese to the United States, adopted February 9, 1878; 1877-8, 1063.]

An Act to mend the Penal Code by adding two new sections thereto, to be known as sections 178 and 179, prohibiting the employment of Chinese by corporations.

Approved February 13, 1880; Amendments 1880, 1 (Ban. ed. 6).

[This act will be found inserted in its place in the Penal Code, ante, 13, 178.]

An Act to promote emigration from the State of California.

Approved March 26, 1880; 1880, 15 (Ban. ed. 50).

[This act, which seems to have been principally intended to prevent Chinese companies from restraining the return to China of persons indebted to them, will be found given in full under the head of "Emigration," post, 15,147.]

An Act to provide for the removal of Chinese, whose presence is dangerous to the well-being of communities, outside the limits of cities and towns in the State of California.

Approved April 3, 1880; 1880, 22 (Ban. ed. 114).

Chinese, removal of, outside of city limits.

SECTION 1. The board of trustees or other legislative authority of any incorporated city or town, and the board of supervisors of any incorporated city and county, are hereby granted the power, and it is hereby made their duty, to pass and enforce any and all acts, or ordinances, or resolutions necessary to cause the removal without the limits of such cities and towns, or city and county, of any Chinese now within or hereafter to come within such limits; provided, that they may set apart certain prescribed portions of the limits of such cities, or towns, or city and county, for the location therein of such Chinese.

SEC. 2. This act shall take effect and be in force from and after its passage.

An Act to prohibit the issuance of licenses to aliens not eligible to become electors of the State of California.

Approved April 13, 1880; 1880, 29 (Ban. ed. 102).

[This act, the object of which is sufficiently expressed in the title, will be found given in full, ante, 8359.]

An Act relating to fishing in the waters of this State.

Approved April 22, 1880; 1880, 123 (Ban. ed. 388).

[This act, which applies only to aliens incapable of becoming electors, and was aimed at Chinese fishermen, will be found given in full, ante, 13,637.]

[The legislature of 1880 also adopted a resolution having in view a modification of the Burlingame treaty so as to prohibit further Chinese immigration: See 1880, 246 (Ban. ed. 9).]

City and County Government.

15,046.

An Act to provide for the organization, incorporation, and government of merged and consolidated cities and counties of more than one hundred thousand population, pursuant to the provisions of section 7 of article XI of the constitution of this State.

Approved April 24, 1880, Stats. 1880, 137 (Ban. ed. 414).

General application of act.

SECTION 1. Any city and county government of more than one hundred thousand population, which has been heretofore merged and consolidated into one municipal government, shall, from and after the passage of this act, be deemed to be and be incorporated and organized thereunder, and any such city and county government which may hereafter be so merged and consolidated, shall be organized, incorporated, and governed by and under the provisions of this act.

General municipal powers—Name—Seal—Property—Boundaries—Suits and actions.

SEC. 2. Every such city and county government mentioned in section one shall, after its organization under this act, remain and continue to be a body

politic and corporate in name and fact by the same name it held at the time of its organization hereunder, and by such name shall have perpetual succession, may sue and defend in all courts and places, and in all matters and proceedings whatever, and may have and may use a common seal, and the same may alter at pleasure, and may purchase, receive, and enjoy real and personal property, and sell, convey, and dispose of the same for the common benefit. The boundaries of such cities and counties heretofore organized shall, until altered by law, be and remain the same as before its organization under this act, and such cities and counties shall continue to have, hold, and enjoy all its public buildings, land, and property, real and personal, rights of property, rights of action, suits and actions, money, revenue, income, books, documents, records, archives, claims, demands, and things in possession and action of every nature and description, and shall be liable to all its debts, liabilities, dues, duties, and obligations as fully as if no change or reorganization under this act had ever occurred. Any such corporation heretofore organized and organizing, under this act, shall be deemed and construed to be a continuation of the former one, with all its rights and liabilities remaining in full force and effect. Suits and actions may be brought in the name of such city and county for the recovery of any property, money, or thing belonging thereto, or the enforcement of any rights or contracts with such city and county, either before or after its reorganization hereunder, and all existing suits, actions, and proceedings in the courts shall be carried on by or against the reorganized municipal corporation as if no change had been made. And from any judgment rendered against such city and county in any court, an appeal may be taken by such city and county, where an appeal is allowed by law, without the giving of any appeal bond or undertaking, on complying with the other requisites prescribed by law.

Laws applicable—Indebtedness—Funding acts—Uniform taxes.

SEC. 3. All the existing provisions of law defining the duties of county officers, excepting those relating to supervisors and boards of supervisors, so far as the same are not inconsistent with, repealed, or altered by the provisions of this act, shall be considered as applicable to officers of such cities and counties, acting or elected under this act. Provision shall be made from the revenues of any city and county heretofore existing and reorganized under this act, for the payment of the legal indebtedness of the municipal incorporation to which such reorganized city and county shall succeed, or of which it is a reorganization, as well as for that of such city and county after its organization, and all funding acts and other laws providing for the payments of principal and interest on any funded debt of such former corporation shall remain in force. The taxes which may be levied and collected in such city and county shall be uniform throughout the same.

OFFICERS.

15,047. *Officers—Elections—Terms.*

SEC. 4. There shall be elected by the qualified voters of such city and county, at the next general State election to be held on the first Tuesday after the first Monday of the month of November, eighteen hundred and eighty, and at the general State election held every two years thereafter, the following officers, viz.: A mayor, sheriff, auditor, tax collector, treasurer, county clerk, recorder, district attorney, city and county attorney, coroner, surveyor, superintendent of streets, twelve school directors, six justices of the peace, public administrator, police judge, who shall hold office for two years. The terms of such officers shall commence on the first Monday after the first day of January next follow-

ing their election. Also, twelve aldermen, in the manner, and who shall hold office as provided in section eleven of this act, and twelve delegates, who shall hold office as provided in section thirteen of this act.

Officers of 1879—Wards—Delegates—Aldermen—Municipal council.

SEC. 5. All officers of such city and county elected in the year eighteen hundred and seventy-nine, either under general or special laws, and holding office at the time of the passage of this act, and whose office is not abolished by this act, shall hold their respective offices until their respective successors are elected and qualified, as provided in this act; and the board of supervisors of such city and county shall divide such city and county into twelve wards (the boundaries of such wards shall be the same as at present in such city and county), and notify the mayor of such city and county of such division on or before the tenth day of June, eighteen hundred and eighty; and within twenty days thereafter the mayor of such city and county shall appoint twelve delegates, one from each of the wards into which such city and county shall have been so divided; and the said delegates so appointed shall constitute the board of delegates provided for in this act. The board of supervisors of such city and county shall, on the first day of July, eighteen hundred and eighty, organize as the board of aldermen provided for in this act; and the said delegates so appointed shall, at the same time, organize as the house of delegates provided for in this act; and the said two boards shall constitute the municipal council provided for in this act; and the members of said council shall hold their respective offices till their respective successors are elected and qualified, as provided in this act; and the said municipal council may hereafter, from time to time, change the boundaries of such wards so as to equalize the population of the same respectively as far as practicable.

Offices public and open—Holidays.

SEC. 6. The mayor, sheriff, county clerk, county recorder, treasurer, district attorney, auditor, tax collector, assessor, city and county attorney, superintendent of streets, and surveyor, shall keep public offices, which shall be kept open for the transaction of business every day in the year, except Sundays, Christmas, New Year's, fourth of July, Thanksgiving, the twenty-second of February, and on any days during which a general election shall be held, between the hours of nine o'clock A. M. and five o'clock P. M.

Vacancies.

SEC. 7. Whenever vacancies occur in any of the elective offices of such city and county, and provision is not otherwise made in this or some other act for filling the same, the mayor shall appoint, subject to the confirmation of the board of aldermen, a person to discharge the duties of such office until the next election, when the vacancy shall be filled by election for the unexpired term. All persons so appointed shall, before entering upon their duties, take the oath of office, and give bonds as required by law.

Compensation of officers—Fees.

SEC. 8. No fees or compensation to be paid out of the treasury, other than those expressly allowed in this act, shall be allowed or received by any officer of such city and county, or of any district, or other subdivision thereof; nor shall any allowance or provision be made for them, or any of them, at the public expense, beyond the fixed compensation herein provided under the name of office rent, fuel, lights, stationery, contingencies, extra services, or otherwise, except the compensation or percentage allowed to the tax collector and to the

assessor in the collection of poll taxes, and except that the necessary and proper books, stationery, and official blanks may, at the discretion of the municipal council, be purchased and supplied for all the courts of such city and county, its officers, municipal council and other boards, and officers, the expense whereof, when the amount in each particular case shall have been previously authorized and fixed by the municipal council, may be paid out of the general fund, upon demand upon the treasury duly audited, as in this act provided.

Official bonds.

SEC. 9. All officers of such city and county must, before they can enter upon their official duties, give a bond as required by law. The bonds and sureties of such officers must be approved by the president of the board of aldermen, auditor, and a judge of the superior court in and for such city and county. When the amount of such official bond is not fixed by law, it shall be fixed by the municipal council. No banker, residing or doing business in such city or county, nor any such banker's partner, clerk, employe, agent, attorney, or father, nor a brother, shall be received as surety for the treasurer, mayor, sheriff, auditor, or any officer having the collection, custody, or disbursement of money. No person can be admitted as surety on any such bond, unless he be worth, in fixed property, including mortgages, situated in such city and county, the amount of his undertaking over and above all sums for which he is already liable or in any manner bound, whether as principal, indorser, or security, or whether such prior obligation or liability be conditional or absolute, liquidated or unliquidated, certain or contingent, due or to become due. All persons offered as sureties on official bonds must be examined on oath touching their qualifications. The official bond of the auditor shall be filed and kept in the office of the clerk of such city and county. And all other official bonds shall be filed and kept in the office of the auditor; provided, that the bonds and sureties of the mayor must be approved by the chairman of the house of delegates, auditor, and a judge of the superior court in and for such city and county; and that the bonds and sureties of the auditor must be approved by the president of the board of aldermen, the chairman of the house of delegates, and a judge of the superior court in and for such city and county.

MUNICIPAL COUNCIL.

15,048. *Legislative power—Municipal council.*

SEC. 10. The legislative power of such city and county shall be vested in a body to be styled the "Municipal Council" of such city and county, and shall be composed of two boards or houses of legislation, one to be called the "Board of Aldermen," and the other the "House of Delegates."

Board of aldermen—Salaries.

SEC. 11. The board of aldermen shall consist of twelve persons, to be elected by general ticket from the city and county at large, the members of which shall hold office for the term of four years, to commence on the first Monday after the first day of January next following their election, except that of the aldermen, who are elected at the first election under this act, the six receiving the smallest number of votes shall hold their office for two years only; so that thereafter only six shall be elected every two years. In case of a tie vote at such first election, the question of which aldermen shall hold the full and which the short term, shall be determined between the candidates so tied by lot. The aldermen shall receive each a salary of twelve hundred dollars a year, payable in monthly installments out of the general fund.

Secretary of board of aldermen—Salary.

SEC. 12. The board of aldermen shall appoint a secretary, with a salary not to exceed two hundred dollars a month, who shall keep the records of said board. He shall hold office during the pleasure of the board. He shall have power to administer oaths and affirmations in all cases, and to certify and authenticate copies of all records, papers, and documents in his official custody, and shall perform any other services required by the board.

House of delegates—Salaries.

SEC. 13. The house of delegates shall consist of twelve persons, to be elected every two years, one each by the qualified electors of the respective wards, into twelve of which such city and county shall be divided for such purpose. The delegates shall hold office for the term of two years, to commence on the first Monday after the first day of January next following their election, and shall receive each a salary of twelve hundred dollars a year, payable monthly out of the general fund.

Clerk of house of delegates.

SEC. 14. The house of delegates may appoint a clerk, who shall keep their records and hold office during their pleasure. He shall have a salary not to exceed two hundred dollars a month; shall have power to administer oaths and affirmations, and to certify and authenticate all records, documents, and papers in his official custody. He shall perform any other service required of him by the house.

Vacancies in boards.

SEC. 15. Any vacancy occurring in either board shall be filled by the mayor; and the person appointed to fill such vacancy shall hold office till the next election by the people, and until his successor is qualified.

Qualifications of aldermen.

SEC. 16. Every member of the board of aldermen shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this State, and a resident of such city and county for three years next before his election or appointment.

Qualifications of delegates.

SEC. 17. Every member of the house of delegates shall be a qualified voter, at least twenty-five years of age; shall have been a citizen of the United States and of this State, and a resident of such city and county at least two years, and of the ward from which he is elected or appointed at least one year next before his election or appointment.

Forfeiture of seat in municipal council.

SEC. 18. Every member of either branch of the municipal council shall, at all times during his incumbency of said office, possess the following qualifications: He shall not be directly or indirectly interested in any contract with such city and county, or any department or institution thereof. He shall not have been convicted of malfeasance in office, bribery, or other corrupt practices or crimes. Any member who fails to possess, or who shall at any time during his term of office cease to possess any of the qualifications mentioned in this act as a qualification, shall thereby forfeit his seat in the board or house to which he belongs, and the vacancy shall be filled as in other cases. If any member of either branch absent himself from the State, or neglect to attend the meeting of the board or house to which he belongs, for a period of thirty days, his office shall be declared vacant by said board, and a successor must be

appointed, to hold till the next election by the people, as provided in other cases.

Officers, records, and rules of boards.

SEC. 19. Each board or house shall elect its own officers, except as to the presiding officer of the board of aldermen. The mayor shall preside at all the sessions of the board of aldermen, without the right to vote. In his absence, during any session, the board shall appoint one of its members as president pro tempore, who shall, however, have the same right to vote as other members. Each house shall be the judge of the election returns and qualifications of its own members, and may determine the rules of its own proceedings, except as herein provided. Each house shall keep a record of its acts and allow the same to be published, and the yeas and nays on any question shall, at the request of any member, be entered on the journal of the house; may arrest and punish by fine, not exceeding five hundred dollars, or imprisonment as provided by ordinance, not exceeding thirty days, or both, any person not a member who shall be guilty of disrespect to the board or house by disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two thirds of all the members elect, may expel a member.

Chairman of delegates—Quorum—Passage of orders.

SEC. 20. The house of delegates shall elect one of their own number presiding officer of said house, who shall be designated as the "chairman" thereof. A majority of the members of either house shall constitute a quorum to do business, and no regulation, resolution, ordinance, or order of either house can pass without the concurrence of a majority of all the members elected or appointed to such house; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the house or board may provide.

Public sessions—Adjournments.

SEC. 21. All sessions, acts, and resolutions of each house shall be public. Neither house shall, without the consent of the other, adjourn for more than seven days at any one time, nor to any other place than that in which the two houses may be sitting.

Ineligibility of members to certain offices and employments.

SEC. 22. No member of the municipal council shall, during the time for which he is elected, be eligible or appointed to any other office under the city and county, except such offices as may be filled by election by the people; nor shall any member, while such, be an employe of such city and county, or any board or department thereof, or of either branch of the municipal council, in any capacity whatever, and no compensation shall be audited or paid for services as such officer or employe; and no act, ordinance, or resolution shall ever be passed whereby any member of either house shall become the disbursing officer of such city and county, or any board or department thereof, or pay out any of its money upon any pretense whatever.

Officers not to contract debts or liabilities against city and county.

SEC. 23. No member of the municipal council, or of the board of education, or any officer of such city and county, or of any ward thereof, shall have any power to contract any debt or liability whatsoever against such city and county, nor shall the people, or taxpayers, or any property therein, ever be liable to

be assessed for, or on account of any debt or liability hereafter contracted, or attempted to be contracted, in contravention of this act.

Finance committee.

SEC. 24. The municipal council shall appoint a joint committee of five, three from the board of aldermen, and two from the house of delegates, to be denominated the "Finance Committee," which committee may, at any time, and shall, whenever required by the municipal council, or either branch thereof, investigate the transactions and accounts of any and all officers appertaining to the government of such city and county having the collection, custody, or disbursement of public money, or having the power to approve, allow, or audit demands on the treasurer, and report thereon to the municipal council. Said committee shall have full power to send for all persons and papers, and enter into, examine, inquire, and investigate all offices and places, to administer oaths and affirmations, to examine witnesses, and compel their attendance by subpoena and attachment for contempt, and the production of records, books, and papers, and may imprison in the county jail any person refusing to appear or testify, as well as any officer or person failing or refusing obedience to the orders to show records, papers, or books, or to testify when required so to do. The sheriff or any policeman of such city and county shall enforce all orders of said committee, and attend upon it in like manner as upon courts of record. The mayor may be present and participate in such investigations.

Meetings of municipal council.

SEC. 25. The municipal council shall meet on the first Monday after the first day of January, and on the first Monday of April, July, and October, of each year, and at such other times as required by law, and may be specially convoked by the mayor as herein provided.

Ordinances, how passed.

SEC. 26. No ordinance shall be passed except by bill, and no bill shall be so amended in its passage as to change its original object. No bill shall contain more than one subject, which shall be expressed by its title. On the final passage of all bills the vote shall be by "yeas" and "nays" upon each bill, separately, and the names of the members voting for and against the same shall be entered on the journal. Bills may originate in either house, and no bill shall be passed by either house except by a majority vote of all the members elected or appointed to either house.

Amendments to bills.

SEC. 27. No amendments to bills by either house shall be concurred in by the other except by a vote of a majority of all the members elected or appointed thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted by either house only by the vote of a majority of all the members elected thereto, taken by "yeas" and "nays," and the names of those voting recorded upon the journals.

No amendment by mere reference to title.

SEC. 28. No ordinance shall be revived, re-enacted, or amended, by mere reference to its title, but such ordinance or section shall be set forth at length, as if it revived, re-enacted, or amended.

Reconsideration of defeated bills.

SEC. 29. When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the

vote upon such motion to reconsider shall be taken up, and the subject finally disposed of at the next meeting of the council, unless such house by a two-third vote decides to act upon such reconsideration at the same meeting.

Signing of ordinances.

SEC. 30. No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the two houses in open session, in authentication of its adoption by such house. In signing such bill for authentication, the presiding officer shall call the attention of the house to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as enrolled. If any member object that the bill is not the same in substance and form as when considered and passed by the house, such objection shall be passed upon, and, if sustained, the presiding officer shall withhold his signature, and the bill shall then be corrected and finally disposed of, and signed before the house proceeds to any other business.

Appropriation acts.

SEC. 31. No general appropriation act or authorization shall ever be passed, but all appropriations shall be for the specific amount of the claim to be paid, and no more; and each ordinance or resolution authorizing the payment of money shall contain one claim only, which shall be expressed in the title. Every ordinance or resolution of the municipal council providing for any specific improvement, the granting of any privilege, or involving the lease or appropriation of public property, or the expenditure of public moneys (except for sums less than five hundred dollars), or levying tax, or assessment, and every ordinance or resolution imposing a new duty or penalty shall, after its introduction in either house, be published, with the "yeas" and "nays," in the newspaper doing the city and county printing, at least five successive days before final action upon the same by the house in which it was introduced; and in case such ordinance or resolution shall be amended before final passage in said house, then the bill, as amended, shall be so published, in the same manner before final action by such house thereon; and every such ordinance, after the same shall have passed both houses, shall, before it takes effect, be presented to the mayor for his approval. If he approves, he shall sign it; if not, he shall return it within ten days to the house in which the same originated, with his objections in writing. Said house shall then enter the objections on the journals, and publish them in the newspaper doing the city printing. At the next stated meeting thereafter said house shall proceed to reconsider such bill. If, after such reconsideration, it again passes both houses by the votes of nine of the members elected or appointed to each house voting therefor, it shall become a law, notwithstanding the mayor's objections. Should any such ordinance or resolution not be returned by the mayor within ten days after he receives it, it shall become valid, the same as if it had received his signature. Where a claim against the treasury amounts to more than five hundred dollars, it shall not be lawful to divide or break up the same into several sums of less than that amount, so as to evade the provisions of this section concerning claims; and any effort or attempt to accomplish such unlawful division, or breaking up of a claim, shall be deemed as to every member of the municipal council, or other officer consenting thereto or aiding the same, a misdemeanor in office, and be cause for his removal. All ordinances authorizing the payment of any money out of the treasury, or any claim thereon, shall be referred to the appropriate

standing committee of the house where the bill is introduced, who shall present the same to the auditor, in order that he may certify that there is sufficient money in the proper fund out of which such claim can lawfully be paid, and that such appropriation can be made without violating the provisions of this act; and until the auditor certifies in writing, signed by his name, that there is sufficient money in the proper fund, and that the authorization can be made without violating the provisions of this act, no further proceedings shall be had with such bill. It shall be the duty of the auditor, with reasonable promptness, to ascertain the facts, and to give the certificate when the facts warrant him in doing so, and not otherwise.

Limitation of powers of municipal council.

SEC. 32. The powers of the municipal council, and all other boards, commissioners, and officers, are those specially named in this act, and they are prohibited from exercising any other.

Enacting clause of ordinances.

SEC. 33. The enacting clause of ordinances shall be in the following terms: "The Municipal Council of the City and County of —, hereby ordains as follows."

LEGISLATIVE POWERS.

15,049. *Powers of municipal council.*

SEC. 34. The municipal council shall further have power by regulation or ordinance:

First—To provide for the security, custody, and administration of all property of such city and county, and to purchase land required for municipal purposes without any power to sell or incumber the same, or lease any part thereof, for more than three years; except, however, that such personal property belonging to the fire, street, or other departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

Second—To provide for cases omitted in this act, and in conformity with the principles adopted in it, for opening, altering, extending, constructing, repairing, or otherwise improving public streets and highways, at the expense of the property benefited thereby, without any recourse in any event upon such city and county or the public treasury for any portion of the expense of such work, or any delinquency of the property holders or owners.

Third—To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in duration; nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

Fourth—To provide water for municipal purposes.

Fifth—To regulate market houses and market places.

Sixth—To provide for inclosing, improving, and regulating all public grounds of such city and county.

Seventh—To prohibit the erection of wooden buildings or structures within any fixed limits where the streets have been established and graded, or ordered to be graded, or to restrict and limit the height of such buildings or structures. To regulate the sale, storage, and use of gunpowder, and to restrict the limits within which may be manufactured or kept giant powder, dynamite, nitroglycerine, or other explosive or combustible materials and substances, and the

maintenance of acid works; and make all useful regulations in relation to the manufacture, storage, and transportation of all such substances, and the maintenance of acid works, slaughter houses, brick burning, tanneries, and all other manufactures and works of every description that may jeopardize the public safety, and to exclude them from the city and county when necessary, or to restrict them or any of them to a district. To make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

Eighth—To permit the laying down of railroad tracks and the running of cars thereon along any street, or portion of street, for the sole purpose of excavating and filling in a street, or portion of a street, or adjoining lots, and for such limited time as may be necessary for the purposes aforesaid, and no longer.

Ninth—To determine the fines, forfeitures, and penalties that shall be incurred for the breach of regulations established by the said municipal council, and also for a violation of the provisions of this act, where no penalty is affixed thereto or provided by law; but no penalty to be imposed shall exceed the amount of one thousand dollars, or six months' imprisonment, or both. And every violation of any lawful order or regulation, or ordinances of the municipal council, is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the people of the State of California.

Tenth—To regulate and provide for the employment of prisoners sentenced to labor on the public works of such city and county, and to maintain and regulate city and county jails and prisons, with manufacturing or other laboring establishments or appliances connected therewith.

Eleventh—To provide a suitable office and jury room, and dead house or morgue, with the furniture necessary to enable the coroner to efficiently discharge the duties of his office, and to make the necessary appropriation therefor; and to audit and pay for the necessary expenses of maintaining the morgue and offices attached, such sum as may be necessary, not to exceed seventy-five dollars per month, out of the general fund.

Twelfth—To maintain and regulate a home of the inebriate in its discretion.

Thirteenth—To provide and maintain a city prison.

Fourteenth—To maintain and improve the city cemeteries, and to pay out of the general fund a keeper thereof, to be appointed by the board of health, at a salary not to exceed one hundred dollars a month.

Fifteenth—To license and regulate hackney carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, baggage, goods, merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to license and regulate persons and parties employed in conveying baggage, property, and merchandise, or either, to or from any of the wharves, slips, bulkheads, or railroad stations, within the limits of such city and county; to fix and establish the amount of every license paid into the city and county treasury for city and county purposes; to provide for the summary removal and disposition of any or all vehicles found in the streets, highways, and public squares during certain hours of the day or night, to be designated by the council; and in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles; to protect the public from injury by runaways, by punishing persons who negligently leave horses or carriages in the street; to prescribe the width of the tires of all drays, trucks,

and carts, in accordance with the weight to be carried thereby, for the preservation of the streets and highways.

Sixteenth—To regulate, license, and control the business of keeping intelligence offices, prescribe the method of conducting said business, and to enforce, by fines and penalties, the payment of the license, and any violation of the regulation touching said business. To license and regulate pawnbrokers, and to enact regulations to protect the public in dealing with them.

Seventeenth—To fix the fees and charges to be collected by the surveyor of such city and county for certificates of surveys for buildings or other purposes, and to provide for a sufficient corps of deputy surveyors to perform such work, to be paid from such fees only; also, to regulate the fees to be charged by the superintendent of streets, the county recorder, and any and all other municipal officers, where their fees are not otherwise fixed by law, and compel the payment of all such fees and charges into the city and county treasury into the proper fund, in accordance with the provisions of this act.

Eighteenth—To license and regulate, for the purposes of city and county revenue, all such callings, trades, and employments as the public good may require to be licensed and regulated, and as are not prohibited by law; to provide for and enforce, with penalties or otherwise, the collection and due payment into the city and county treasury of all moneys so due or raised, and to make all needful rules and regulations to govern the official conduct and duties of the collector of licenses.

Nineteenth—To provide and pay for the construction and repair of hydrants, fire-plugs, cisterns, and pumps in the streets.

Twentieth—To allow and order paid out of the general fund a sum not to exceed three thousand dollars in any year, for the celebration in such city and county of the anniversary of our national independence.

Twenty-first—To allow and order paid out of the general fund, for the election expenses of such city and county, not to exceed forty dollars for each election precinct, for each election in said city and county.

Twenty-second—To provide ways and means for the prosecution of the claims of such city and county to any land or other property or right claimed by such municipality.

Twenty-third—To provide for the appointment by the mayor of a weigher of coal, without salary, and to regulate and define his duties, and establish rates of charges to be collected from persons requiring his services, and for his compensation from such rates and charges alone, and with no claim upon such city and county.

Twenty-fourth—To authorize and direct the summary abatement of nuisances; to make all regulations which may be necessary or expedient for the preservation of the public health and the prevention of contagious diseases; to provide fines and penalties against individuals who may be guilty of maintaining any nuisances, and enforcing the same until such nuisance be removed or abated; to provide by regulation for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways, and public grounds of such city and county, and to prevent or regulate the running at large of dogs, and to authorize the destruction of the same when at large contrary to ordinance.

Twenty-fifth—To prohibit, suppress, regulate, or exclude from certain limits all houses of ill-fame, prostitution, and gaming; to prohibit, suppress, regulate, or exclude from certain limits all occupations, houses, places, pastimes, amuse-

ments, exhibitions, and practices which are against good morals, contrary to public order and decency, or dangerous to the public safety.

Twenty-sixth—To require, by ordinance, all contractors for street work, or other persons lawfully undertaking to improve, grade, or alter streets or public highways, to erect fences or barriers, to keep lights at night, and to take other necessary precautions to protect the public from damage, loss, or accident by reason of such grading, alteration, or improvement, and to fix and prescribe penalties for the violation of the provisions of such ordinance.

Twenty-seventh—To provide for the safe keeping and disposition of lost, stolen, or unclaimed property of every kind, which may at any time be in the possession or under the control of the police of such city and county.

Twenty-eighth—To regulate, and, when necessary, to suppress all public demonstrations and processions which interfere with public traffic.

Twenty-ninth—To appoint a fire marshal. Such appointment shall be made on the nomination of the board of fire underwriters of such city and county, if such board shall exist therein. If more than one such board shall exist therein, then upon the nomination of the board which shall have been longest organized. His salary shall be fixed and paid by such board of fire underwriters. Such fire marshal shall, before entering upon the office, take and subscribe the oath of office, and execute a bond to the State of California in the sum of five thousand dollars, with two or more sureties, to be approved by a judge of the superior court, for the faithful discharge of his duties. Any person aggrieved by any misconduct of such marshal, or his deputy, may bring an action in his own name upon such official bond, which bond shall be filed in the office of the county clerk. It shall be the duty of such fire marshal to attend all fires which may occur in such city and county, with a badge of office conspicuously displayed. He shall take charge of and protect all property which may be imperiled at any such fire, and safely keep the same under his possession and control until satisfactory proof of ownership be made thereto; and shall, as far as practicable, prevent such property from being injured at such fire, and direct, when in his opinion it shall be necessary, the removal of goods, merchandise, and other property to a place of safety. He shall be authorized and empowered to exercise the functions of a peace officer of such city and county. Any person who shall willfully hinder or obstruct such officer in the lawful discharge of his duties, shall be deemed guilty of a misdemeanor; provided, however, that nothing herein contained shall be so construed as to authorize such fire marshal to interfere in any manner with the proper discharge of the lawful duties and authority of any chief engineer of any fire department of such city and county. It shall be the duty of such fire marshal to institute investigations into the cause of such fires as occur in such city and county; and for this purpose he shall have power to issue subpoenas and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be directed to and served by any police officer, or by any peace officer of such city and county. Any witness who refuses to attend or testify in obedience to such subpoena, shall be deemed guilty of contempt, and be punishable by him as in cases of contempt in justices' courts in civil cases. He shall make a written report of the testimony to the district attorney, and institute criminal prosecutions in all cases in which there appears to him to be a reasonable and probable cause for believing that a fire has been caused by design. It shall be the duty of such fire marshal to aid in the enforcement of the fire ordinances of such city and

county, and for this purpose he is duly authorized to visit and examine all buildings in process of erection or undergoing repairs, and to institute prosecutions for all violations of the ordinances of such city and county which relate to the erection, alteration, or repairs of buildings and the prevention of fires. He shall exercise such additional powers as may be conferred upon him by the ordinances of such city and county to enable him fully to carry out the object and purpose of his appointment, and for the prevention of fires. He shall have power to appoint a deputy, who may exercise all the powers and perform all the duties of such marshal. The salary of such deputy shall be paid in the same manner as the fire marshal. Any person who saves from fire, or from a building endangered by fire, any property, and who willfully neglects for two days to give notice to such fire marshal, or to the owner of such property, of his possession thereof, shall be deemed guilty of grand or petty larceny, as the case may be, according to the value of said property; and any person who shall be guilty of false swearing in any investigation under this subdivision, shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished therefor as in other cases of perjury. Such fire marshal may be removed at any time by the same power or powers that appointed him. And in case of the removal, resignation, or death of such fire marshal, his successor shall be appointed in the same manner as hereinbefore provided. Such fire marshal is hereby authorized and empowered to appoint one or more persons during the time of fire, for the purpose of saving and protecting property at such fire, and until it shall be delivered to the owner or claimant thereof, and such person or persons so appointed shall have during such period the authority and power of a policeman of such city and county, and shall be known as the fire marshal's police; and each of such persons shall wear while in the discharge of his duty, conspicuously displayed on his person, such badge or device as such fire marshal shall designate. No person shall be entitled to any property in the hands of such fire marshal, saved from fire, until satisfactory proof of ownership be made, and until the actual expenses incurred by such officer for the preservation and keeping of the same shall be paid to him by the owner or claimant of said property; and in case of dispute as to the amount of such expenses, said dispute to be determined by the justices' court of such city and county. Such marshal is hereby duly authorized and empowered to hold and sell, or cause to be sold at public auction, all property in his possession saved from a fire or fires for which no owner can be found, after advertising the same in two daily newspapers published in such city and county, for the period of thirty days; provided, however, that if, upon application of such fire marshal to the police judge, it shall appear that such property is perishable, such judge may order such fire marshal to make sale thereof upon such notice as in the opinion of such judge may be reasonable. The proceeds of all such sales, together with an account thereof, after deducting all expenses, shall be by him deposited with the treasurer of such city and county, to be held by such treasurer, subject to the claim of the owner of such property. Such fire marshal shall, from time to time, file with the county clerk of such city and county, under oath, a statement and description of all property in his possession, or under his control and sold by him, together with the amount of money by him deposited with the treasurer of such city and county.

Thirtieth—To maintain a fire alarm and police telegraph in such city and county.

Thirty-first—To require the owners of lots to prevent sand from drifting, being blown, or otherwise moved therefrom, into or deposited upon any paved, planked, or macadamized street, alley, place, park, thoroughfare, or other public property, and to enforce all such regulations by sufficient fines and penalties.

Thirty-second—To maintain, regulate, govern, manage, and carry on a house of correction, and to utilize therein and thereby the labor of all prisoners committed to the jail or house of correction of such city and county, by the police courts and the superior courts; to prescribe rules of commitment and detention of prisoners, hours of labor, and all necessary rules, regulations, and restrictions, for the proper operation of said institution. All prisoners sentenced to a term in the county jail, or house of correction, shall be deemed to have been sentenced to labor during such term. The judges of police courts and of the superior courts, in such city and county, may sentence criminals to the house of correction when, in the judgment of such judge, the criminal is too young to be sentenced to the State prison, or when it is deemed better for the well being of the prisoner. No person shall be sentenced to imprisonment in the house of correction for a shorter or longer term than that for which he might be sentenced in the county jail of such city and county, or in the State prison; and in no case whatever for a shorter term than three months, nor for a longer term than three years. No person who might be sentenced to imprisonment in the State prison, shall be sentenced to imprisonment in the house of correction if he is more than twenty-five years of age, if he has been once before convicted of a felony, or twice before convicted of petit larceny, nor unless, in the opinion of the court, imprisonment in the house of correction will be more for his interest than imprisonment in the State prison, and equally for the interest of the public. The fact of a previous conviction may be found by the court upon evidence introduced at the time of sentence. The board of aldermen of the city and county shall appoint a competent superintendent for the house of correction of such city and county, who shall also be treasurer of said house of correction, and who shall give good and sufficient bonds in a sum, and with sureties to be approved by said board of aldermen, for the faithful discharge of his duties, and to whom shall be paid a salary to be fixed by them, not to exceed two hundred and fifty dollars per month, payable monthly. Said superintendent shall only be removed for just and sufficient legal cause, after a fair and impartial investigation of his case by said board of aldermen. He shall immediately after his appointment, and when authorized by said board of aldermen, appoint, subject to the approval thereof, such subordinates as may be deemed necessary by the board of aldermen, and the pay of such subordinates shall be fixed by said board of aldermen, not exceeding one hundred dollars per month to each party so appointed. The superintendent shall manage the general interests of the institution; see that its affairs are conducted in accordance with the requirements of this act, and of such by-laws as the board of aldermen may from time to time adopt for the orderly and economical management of its concerns; to see that strict discipline is maintained therein; to provide employment for the inmates; adjust and certify all claims against the institution; and all by-laws made by said board of aldermen for the management of said institution, and not contrary to the laws of this State, shall be binding in all respects upon said superintendent, officers, and inmates; and said superintendent shall, each year, prepare and submit, under oath, to the board of aldermen, a report of the concerns of said institution. The superin-

tendent shall reside at the house of correction, have charge of its inmates and property, and be its treasurer; keep accounts of all his receipts and expenditures, and of all such property, and account in such manner as the said municipal council may require, and hold all books and papers open to their inspection.

Thirty-third—To maintain and regulate an industrial school, for the detention, management, reformation, education, and maintenance of such children, under the age of eighteen years, as shall be committed or surrendered thereto by the courts of such city and county, as vagrants, living an idle and dissolute life, or who shall be convicted by the police or superior court of any crime or misdemeanor, or who, being tried for any crime or misdemeanor, in such court, shall be found to be under fourteen years of age, and to have done an act which, if done by a person of full age, would be a crime or misdemeanor; and said council is empowered to regulate the commitment, detention, and discharge of such children, and to designate and prescribe the causes, terms, and conditions thereof, and the said police court and superior court shall have power to adjudge that such persons so convicted shall be so imprisoned; and persons so convicted shall remain at said industrial school until he or she shall attain majority, unless a shorter time shall be fixed by said court in the commitment. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The municipal council may provide for binding out such children as apprentices during their minority, to learn proper trades and employments. There shall be a superintendent of said industrial school, to be appointed by the board of aldermen. He shall be deemed a public officer, whose salary shall not exceed two hundred and fifty dollars a month, and such other employes as may be necessary, with salary not to exceed one hundred dollars a month each. Such police and superior court, or either of them, upon the application of the board of aldermen, and upon its certificate that it is expedient to do so, shall have power to discharge any child committed to said industrial school, and who is not bound out as an apprentice, or adopted, and may in like manner discharge such child upon the application, in writing, of the parents or guardian of such child, who shall not have been bound out or adopted, and after ten days' notice, in writing, to the board of aldermen, if, upon the hearing of the application, such police court or superior court shall consider that such discharge is expedient.

Thirty-fourth—To establish and maintain an alms-house, a city and county hospital, a small-pox hospital, and such other institutions of the same character as are or may be necessary, and to perpetuate such institutions as may have been heretofore established in such cities and counties heretofore incorporated.

Thirty-fifth—To order paid out of the general fund any final judgment against such city and county.

Thirty-sixth—To maintain, regulate, and govern a public pound, fix the limits within which animals shall not run at large, and appoint pound-keepers, who shall be paid for out of the fines imposed and collected of the owners of impounded animals, and from no other source.

Thirty-seventh—To allow and order paid out of the street department fund such sums as may be deemed necessary for improvement of streets bordering on the water front, and improvement of sewers and streets in front of public property.

Thirty-eighth—To allow and order paid out of the general fund such sums as may be necessary for burying the indigent dead.

Thirty-ninth—To allow and order paid out of the general fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

Fortieth—To enact such general and special police regulations for such city and county as shall secure the health, comfort, and security of the inhabitants, the safety and security of property and life, and to enforce the same therein.

Forty-first—To make needful rules and regulations for the administration, care, and maintenance and conduct of all departments and offices of such city and county, when not otherwise in this act provided for, so as to secure more perfect safety of the public funds, and greater efficiency in all departments of the service, and to enforce the observation of such rules and regulations, and to authorize the appointment of such additional clerks, assistant deputies, and employes, as in their judgment may be necessary for the proper discharge of the duties of such offices and departments.

Forty-second—To appropriate the moneys derived from the revenue of such city and county to a general fund, and such funds as have been heretofore or shall be hereafter established by law or the said council, and as shall be necessary for the proper and economical administration of such city and county.

Forty-third—To establish, maintain, and regulate free public libraries and reading rooms, and to perpetuate such free libraries and reading rooms as may have been heretofore established in such cities and counties heretofore incorporated.

Forty-fourth—To provide, fit up, and furnish, and provide with fuel, lights, stationery, and all necessary attendance, conveniences, and care, rooms convenient and accessible to the courts, sufficient for the use and accommodation of a law library and those who have occasion to use it, and approved by the officers having the government of said library, and to perpetuate and in the same manner provide for any law library now existing in such city and county, the use of which has been secured by law to the courts, the bar, and the city and county government. The municipal council shall have power, and it shall be their duty, to appropriate, allow, and order paid out of the proper fund such sums as may be necessary therefor.

Forty-fifth—To establish and maintain a free medical dispensary, and to perpetuate any such heretofore existing in such city and county.

Forty-sixth—To appoint a committee of five, three from the board of aldermen, and two from the house of delegates, to be denominated the "Building Committee," to superintend the construction of buildings hereafter to be constructed for such city and county, or now in progress of construction therefor, and to appoint a secretary for such committee, and to fix his compensation, and, if necessary, also to appoint a superintendent and architect therefor, fix their respective compensation, and to require of such superintendent and architect to execute bonds, with two sureties, conditioned for the faithful performance of their duty, in such sums as may be deemed necessary.

Forty-seventh—To provide for the levy, collection, and appropriation of revenue heretofore by law provided to be collected for the erection and completion of any public building in and for such city and county in the manner as heretofore provided by any law of this State for the levy, collection, and appropriation of the same.

MAYOR.

15,050. Mayor—Qualifications—Duties.

Sec. 35. The mayor shall be the chief executive officer; shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States, and of this State, and a resident in such city and county for three years. It shall be his duty vigilantly to observe the official conduct of all public officers of such city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, custody, administration, and disbursement of the public funds and property, for which purpose the books, records, and official papers of all boards, officers, and magistrates of such city and county, shall at all times be open to his inspection. He shall take especial care to see that the books and records of all such officers are kept in legal and proper form, and any official defalcation, or willful neglect of duty, or official misconduct which he may have discovered, or which shall have been reported to him, shall, at the earliest opportunity, be laid before the municipal council and before the grand jury, in order that the public interests shall be protected and the officer in default be proceeded against according to law. He shall, from time to time, give the municipal council information relative to the state of such city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws of the State and the ordinances of the municipal council are enforced.

Mayor pro tempore.

Sec. 36. Whenever and so long as the mayor, from any cause, is unable to perform his official duties, the board of aldermen shall designate one of their number as mayor pro tempore, who shall perform the same.

Special sessions of municipal council.

Sec. 37. The mayor may, by due notice, call special sessions of the municipal council, and shall specially state to them, when assembled, the objects for which they have been specially convened, and their action shall be confined to such objects.

AUDITOR.

15,051. Auditor.

Sec. 38. The auditor shall be the head of the finance department of such city and county, and as such required to be constantly acquainted with the exact condition of the treasury, and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this act, and shall not follow or engage in any other occupation or calling while he holds said office. If he absents himself from his office during such office hours, except on indispensable official business or urgent necessity, he shall lose his salary for the day; and it shall be a part of his official duty to keep account of the times and occasions when he shall be so absent from duty. He shall be the general accountant of such city and county, and as such it shall be his duty to receive and preserve in his office all accounts, books, vouchers, documents, and papers relating to the accounts or contracts of such city and county; its debts, revenues, and other fiscal affairs, and to adopt a proper mode and manner of double entry book-keeping, and keep the accounts of such city and county, general and special, in a systematic and orderly manner. He shall state and render all accounts filed or kept in his office between the city and other persons or body corporate, except when otherwise provided by law or ordinance. He shall have power to administer

oaths, and shall require settlements of accounts to be verified by affidavit whenever he thinks proper. He shall be responsible for all acts of his employes.

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TREASURER.

15,052. Treasurer.

SEC. 39. The treasurer of such city and county shall receive and safely keep in a secure fire-proof vault, to be prepared for that purpose, all moneys belonging to or which shall be paid into the treasury, and shall not loan, use, or deposit the same or any part thereof to or with any banker or other person, nor pay out any part of said moneys except on demands authorized by this act, and after they have been duly audited. He shall keep the key of said vault, and not suffer the same to be opened except in his presence. At the closing up of the same each day he shall take an account and enter in the proper book the exact amount of money on hand, and at the end of every month he shall make and publish a statement of all receipts into and payments from the treasury, and on what account. If he violates any of the provisions of this section he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly. If he loan or deposit said moneys, or any part thereof, contrary to the provisions of this section, or apply the same to his own use, or the use of any other person, in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the treasury, he shall be deemed guilty of a felony, and, on conviction thereof, shall suffer imprisonment in the State prison for a period not less than three months nor more than ten years.

Duties of treasurer as to funds and office.

SEC. 40. The treasurer shall keep the money belonging to each fund separate and distinct, and shall in no case pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this act, without an express ordinance of the municipal council, which can only be made during or after the end of the third quarter of the fiscal year, by a vote of two thirds of each house. The said treasurer shall give his personal attendance at his public office, during the office hours fixed by this act, and if he absent himself therefrom, except on account of sickness or urgent necessity during such office hours, he shall lose his salary for the entire day on which he was absent.

COUNTY CLERK.

15,053. County clerk.

SEC. 41. The county clerk of such city and county shall take charge of and safely keep, or dispose of according to law, all books, papers, and records which are or may be filed or deposited in his office, and of all the courts of which he is clerk; and he shall not allow any paper, files, or records to leave his custody, except when required by the judges of the courts, to be used by them or any of them.

Papers, files, and records in custody of county clerk.

SEC. 42. No judge or officer of any court shall make any order for the delivery by the county clerk of such city and county, of any paper, files, or records in his custody, except bills of exceptions and statements on motion for a new trial; nor shall the courts, or judges thereof, have any power to make orders for the delivery of any certificate of incorporation, bonds, or other papers, filed with the said county clerk. Whenever any of said papers are re-

quired for evidence in any of the courts within such city and county, the county clerk, or his deputies, shall produce the same, under subpoena or order of the court, or furnish certified copies of the same on application, on payment to said clerk for said copy, at the rate of ten cents per folio for each hundred words, which shall be paid into the city and county treasury by him.

Clerks as witnesses—Deputies.

SEC. 43. Neither the county clerk nor any of his deputies shall be required to attend as witnesses, in their official capacities, outside of such city and county, except in criminal cases, unless his expenses be paid, at the rate of ten cents per mile, to and from the place where he may be required, and three dollars a day for each day's attendance. A sufficient number of deputies shall be assigned by him as court-room clerks, to the various courts of which he is the official clerk, while such courts are in session, and to do duty in the office when such courts are not in session. He shall transfer such deputies to duty in court, or at his office, as the exigency of the service may require, so as to efficiently perform the work in the most economical manner possible.

Fee for law library.

SEC. 44. On the commencement in or removal to the superior court of such city and county of any civil action or proceeding, he shall collect from the plaintiff, or party instituting such proceeding, or filing the first papers therein, the sum of one dollar, and pay over the same at the end of each month to the treasurer of the law library provided for in this act; and the payment of the sum of one dollar shall be a condition precedent to the commencement of such action or proceeding, for which sum so required to be collected he and his sureties shall be responsible on his official bond.

TAX COLLECTOR.

15,054. *Tax collector—Payments into treasury.*

SEC. 45. The tax collector, upon the final settlement to be made by him as such tax collector, according to the requirements of the law, shall be charged with, and shall pay into the hands of the treasurer the full amount of all taxes paid to him under protest or otherwise, or by him collected and not previously paid over, without any deduction of commissions, fees, or otherwise; he shall also be charged with and be deemed debtor to the treasury for the full amount of all taxes due upon the delinquent list, delivered to him for collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor. If the impossibility to collect any portion of such delinquent taxes have resulted from such negligence or defects in such assessment caused by the willful misconduct of the assessor, then the assessor, whose duty it was to make the assessment, shall be liable, and be deemed debtor to the treasury for the amount remaining uncollected for that cause.

ASSESSOR.

15,055. *Assessor—Election, term, and duty.*

SEC. 46. There shall be elected by the qualified voters of such city and county, at the second general State election after the passage of this act, and every four years thereafter, an assessor, who shall take office on the first Monday after the first day of January next following his election, and hold for the term of four years, and until his successor is elected and qualified. It shall be his duty to assess all taxable property within such city and county.

SHERIFF.

15,056. Sheriff's duties.

SEC. 47. The sheriff shall attend in person, or by deputy, all the courts in and for such city and county, except the police courts. He shall obey the lawful orders and directions of such courts, and in all other respects conform to the laws regulating sheriffs in this State.

RECORDER.

15,057. Recorder—Copyists.

SEC. 48. The recorder of such city and county shall have the custody of all books, records, maps, and papers deposited in his office. He or his chief deputy, when any papers are presented for registration, or to be copied, shall write on the margin of each paper so presented, the number of folios paid for, and shall, in his monthly return to the treasurer, certify under oath the number of folios copied or registered by each deputy or copyist appointed by him; and such certificate of the recorder, or his chief deputy, shall be conclusive evidence to authorize the auditor to audit such certified accounts of such deputies or copyists monthly. He shall appoint as many copyists as he shall deem necessary to the proper discharge of the duties of his office, who shall be paid at the rate of twelve cents per folio of one hundred words for all matters registered or copied by them respectively.

DISTRICT ATTORNEY.

15,058. District attorney.

SEC. 49. The district attorney is the public prosecutor, and shall be an attorney of the supreme court, and shall attend the superior court of this State, in and for such city and county, and such other courts as may be hereafter established in and for the same, and conduct therein, on behalf of the people, all prosecutions for public offenses. He shall perform such other duties as are prescribed by law.

CITY AND COUNTY ATTORNEY.

15,059. City and county attorney.

SEC. 50. The city and county attorney shall be an attorney of the supreme court, and shall prosecute and defend all suits and actions at law and in equity, and conduct all legal proceedings, in the courts and elsewhere, necessary to preserve and protect such city and county's rights, whether such suits or proceedings be conducted in the name of such city and county, or in the name of others. He shall give legal advice to the city government, and all the officers, boards, and departments thereof, when required so to do, and perform such other duties as such attorney as the municipal council shall from time to time prescribe. He shall keep in his office well-bound books of registry, in which shall be entered and kept a register of all actions, suits, and proceedings in which such city and county is interested. Each outgoing city and county attorney shall deliver such books, and all other records, law reports, quarterly reports for municipal boards and officers, documents, statutes, papers, furniture, and property in his possession to his successor in office, who shall give him duplicate receipts therefor, one to be filed in the office of the auditor, and one to be retained by the outgoing city and county attorney.

PUBLIC ADMINISTRATOR.

15,060. Public administrator.

SEC. 51. The public administrator of such city and county shall be subject

to the orders of the superior court in and for such city and county, and shall perform all the duties prescribed by law.

CORONER.

15,061. Coroner.

SEC. 52. The coroner of such city and county, in addition to the duties imposed by law upon every coroner, shall keep a record of all inquests held by him, with a copy of all testimony and the inquisition of the juries in full; and in case of loss of the original records, the same shall be admissible in evidence with like effect as the original would have been. He may appoint such deputies, and a messenger or messengers, as are allowed in this act, or as may be hereafter allowed by the municipal council of such city and county. He shall receive no fees for any services rendered by him.

SUPERINTENDENT OF STREETS.

15,062. Superintendent of streets.

SEC. 53. The superintendent of streets shall keep a public office, in some convenient place, to be designated by the municipal council. His office shall be kept open as in this act provided. He shall not, during his continuance in office, follow any other profession or calling, but shall be required to devote himself exclusively to the duties of his said office. He shall have under his special charge the construction, reconstruction, repairing, and cleansing of all public sewers, manholes, sinks, drains, cesspools, and of the public streets, highways, alleys, places, and squares, excepting the parks. It shall be his duty to see that the laws, orders, and regulations relative to the public streets and highways, alleys, places, and squares are carried into execution, and that the penalties therefor are rigidly enforced, as may be prescribed by the municipal council. He shall keep himself informed of the condition of all public streets, highways, alleys, places, and squares; and should he fail to see that the laws, ordinances, and regulations relating to the public streets, highways, alleys, places, and squares, are carried into execution, after notice from any citizen of a violation thereof, such superintendent and his sureties shall be liable upon his official bond to any person injured in person or property by such official neglect.

CITY AND COUNTY SURVEYOR.

15,063. City and county surveyor.

SEC. 54. The city and county surveyor shall be engineer-in-chief of such city and county, and of the sewerage system; shall make all necessary plans, surveys, maps, and drawings, and other necessary things, and keep the same in his office; and all such maps, plans, machinery, and drawings shall be the property of such city and county, and remain in the office, and be transferred by the outgoing to the incoming officer. He shall do all necessary surveying and engineering for the streets, alleys, highways, and squares, at the request of the municipal council, or of any committee appointed by either branch of the same, and all and any other surveying and engineer work that such city and county may require, and of the public parks, at the request of the park commissioners.

LICENSE COLLECTOR.

15,064. Collector of licenses.

SEC. 55. Within twenty days immediately prior to the first Monday in July, eighteen hundred and eighty-one, the municipal council of such city and county

shall appoint a suitable person as collector of licenses of such city and county, who shall hold office for two years from and after his appointment, and until his successor shall be appointed and qualified, and said appointee shall be the successor of any present incumbent, and the official term of such present incumbent shall terminate on said first Monday in July, eighteen hundred and eighty-one. In case of a vacancy occurring by death or otherwise in the office of the collector of licenses of such city and county, holding his office under the provisions of this act, the same shall be filled for the remainder of the unexpired term by appointment of the board of aldermen; and in case of the inability of said collector of licenses to act, his place shall, in the same manner, be temporarily filled until such disability is removed. The collector of licenses and his deputies are hereby authorized, empowered, and required to collect all the municipal licenses now required to be collected, or which shall hereafter be required to be collected by them or either of them; and it shall be the duty of said collector of licenses, and his deputies or assistant collectors, to attend to the collection of licenses, and examine all places of business and persons liable to pay licenses, and to see that licenses are taken out and paid for. They shall each have and exercise, in the performance of their official duties, the same powers as police officers in serving process or summons and in making arrests; also, shall each have and exercise the power to administer such oaths and affirmations as shall be necessary in the discharge and exercise of their official duties; and they and each of them are hereby empowered to enter any place of business for which a license by law is provided and required, free of charge, at their pleasure, and to demand the exhibition of any license for the current time from any person, or firm, or corporation engaged or employed in the transaction of any business for which a license is by law rendered necessary; and if such person, or firm, or corporation, or either of them, shall be unable, or refuse, or neglect, or fail to then and there exhibit such license, he, she, or they, as the case may be, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished accordingly.

Payments by collector of licenses into treasury.

SEC. 56. The collector of licenses shall daily pay to the treasurer of such city and county all moneys so collected for licenses sold, or by him received as fees; and shall, under oath, at least once in each calendar month, and oftener when required so to do by the auditor, make to the auditor a report of all such licenses sold and on hand, and of all amounts so paid to the city and county treasurer; shall at such time exhibit to the auditor all unsold licenses in his hands and the treasurer's receipts for all moneys paid into the treasury; and all licenses so signed by the license collector, or deputy license collector, or either of them, shall be as valid as if signed by the city and county treasurer. All fees so paid to him shall be placed to the credit of the proper fund by the treasurer.

JUSTICES' COURT.

15,065. *Justices' court.*

SEC. 57. There shall be in and for such city and county one justices' court, composed of six justices of the peace, which shall have the powers and jurisdiction prescribed and conferred by law upon justices of the peace and justices' courts in such city and county. All actions, suits, and proceedings whereof justices of the peace and justices' courts in such city and county have jurisdiction shall be commenced, entitled, and prosecuted in said court. Such court shall be always open, non-judicial days excepted, and causes therein may be

tried before the presiding justice, before any of the justices before whom the original process may be made returnable, or to whom the cause may be assigned or transferred for trial.

Presiding justice—Justices' clerk.

SEC. 58. The board of aldermen shall appoint one of the justices of the peace to be presiding justice, who, as such, shall hold office until his successor shall in the same manner be appointed; and any one of the other justices may attend, preside, and act as presiding justice during the temporary absence or disability of the justice so appointed. The board of aldermen, within ten days after its organization as such board, shall appoint a justices' clerk, who shall hold office during the pleasure of the appointing power. The clerk shall take the constitutional oath of office, and give bond, with at least two sufficient sureties, to be approved in the same manner as the official bond of other officers of such city and county, in the sum of not less than fifteen thousand dollars, payable to the city and county, conditioned for the faithful discharge of the duties of his office, and well and truly to account for and pay into the treasury of such city and county, as required by law, all moneys by him collected or received, and by law designated for that use. A new or additional bond may be required by the municipal council whenever it deems it necessary; and on failure to furnish such new or additional bond within five days after it shall be required, the office shall become vacant. The justices' clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit, or proceeding in all courts in such city and county, and to appoint two deputy clerks, for whose acts he shall be responsible on his official bond; the said deputy clerks to hold office during the pleasure of said clerk. Said deputy clerks shall have the same power as the said clerk, except that of appointment.

Court-rooms and offices of justices' court.

SEC. 59. The municipal council of such city and county shall provide, in some convenient locality in the city and county, a suitable office, or suite of offices for said presiding justice, justices' clerk, deputy clerk, and deputy sheriff, and offices suitable for holding sessions of said court, and separate from one another, for each of said justices of the peace, together with attendants, furniture, fuel, lights, and stationery, sufficient for the transaction of business; and if they are not provided, the court may direct the sheriff to provide the same, and the expenses incurred, certified by the justices to be correct, shall be a charge against the city and county treasury, and paid out of the general fund thereof. The said justices, justices' clerk, and deputy clerk, shall be in attendance at their respective offices for the dispatch of official business daily, from the hour of nine o'clock A. M. until five o'clock P. M.

Process, fees, etc., of justices' court.

SEC. 60. All legal process of every kind in actions, suits, or proceedings in said justices' court, for the issue or service of which any fee is or may be allowed by law, shall be issued by the said justices' clerk, upon the order of the presiding justice, or upon the order of one of the justices of the peace, acting as presiding justice, as in this act provided; and the fees for issuance and service of all such process, and all other fees which are allowed by law for any official services of justices, justices' clerk, or sheriff, shall be exacted and paid in advance into the hands of said clerk, and be by him daily, weekly, or monthly, as the municipal council may require, and before his salary shall be allowed, accounted for in detail, under oath, and paid into the treasury of such

city and county as part of the special fee fund thereof; provided, that such payment in advance shall not be exacted from parties who may prove, to the satisfaction of the presiding justice, that they have good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees; and no judgment shall be rendered in any action before said justices' court, or any of said justices, until the fees allowed therefor, and all fees for previous services therein, which are destined to be paid into the treasury, shall have been paid, except in cases of poor persons as hereinbefore provided.

Sheriff ex officio officer of justices' court—Deputies.

SEC. 61. The sheriff of such city and county shall be ex officio an officer of said court, and it shall be his duty to serve or execute, or cause to be served and executed, each and every process, writ, or order that may be issued by said justices' court; provided, that a summons issued from said court may be served and returned as provided in section eight hundred and forty-nine of the Code of Civil Procedure; and that subpoenas may be issued by the justices' clerk, and served as provided in sections nineteen hundred and eighty-seven and nineteen hundred and eighty-eight of the Code of Civil Procedure. The said sheriff may appoint, in addition to the other deputies allowed by law, three deputies, whose duty it shall be to assist said sheriff in serving and executing the process, writs, and orders of the said justices' court. Said deputies shall receive a salary of not to exceed one hundred and twenty-five dollars per month each, payable monthly, out of the city and county treasury, and out of the special fee fund, after being first allowed and audited as other demands are by law required to be audited and allowed. One of said deputies shall remain in attendance during the sessions of said court, and at such other times as the said court, or the presiding justice thereof, may order and direct, for the purpose of attending to such duties as may be imposed on said sheriff or said deputies, as herein provided or required by law. The said sheriff shall be liable on his official bond for the faithful performance of all duties required of him, or any of his said deputies.

Title of actions—Assignment for trial.

SEC. 62. All actions, suits, and proceedings in such city and county, whereof justices of the peace or justices' courts have jurisdiction, except those cases of concurrent jurisdiction that may be commenced in some other court, shall be entitled: "In the Justices' Court of the City and County of ——" (inserting the name of the city and county), and commenced and prosecuted in said justices' court, which shall be always open. The original process shall be returnable, and the parties summoned required to appear before the presiding justice, or before one of the other justices of the peace to be designated by the presiding justice, at his office; but all complaints, answers, and other pleadings and papers required to be filed, shall be filed, and a record of all such actions, suits, and proceedings made and kept in the clerk's office aforesaid; and the presiding justice, and each of the other justices, shall have power, jurisdiction, and authority to hear, try, and determine any action, suit, or proceeding so commenced, and which shall have been made returnable before him, or may be assigned or transferred to him, or any motion, application, or issue therein (subject to the constitutional right of trial by jury), and to make any necessary and proper orders therein.

Absence of justice—Reassignment of actions.

SEC. 63. In case of sickness or disability, or absence of a justice of the peace

(on the return of a summons, or at the time appointed for trial) to whom a cause has been assigned, the presiding justice shall reassign the cause to some other justice, who shall proceed with the trial and disposition of said cause in the same manner as if originally assigned to him; and if, at any time before the trial of a cause or matter returnable or pending before any of said justices, either party shall object to having the cause or matter tried before said justice, on the ground that such justice is a material witness for either party, or on the ground of the interest, prejudice, or bias of such justice, and such objection be made to appear in the manner prescribed by section eight hundred and thirty-three of the Code of Civil Procedure, the said justice shall suspend proceedings, and the presiding justice, on motion and production before him of the affidavit and proofs, shall order the transfer of the cause or matter for trial before some other justice, to be designated by him. The presiding justice may, in like manner, assign or transfer any contested motion, application, or issue in law, arising in any cause returnable or pending before him or any other justice, to some other justice, and the said justice to whom any cause, matter, motion, application, or issue shall be so as aforesaid assigned or transferred, shall have power, jurisdiction, and authority to hear, try, and determine the same accordingly.

Removal of actions—Abstracts, transcripts, and appeals.

SEC. 64. Cases which by the provisions of law are required to be certified to the superior court, by reason of involving the question of title or possession real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the presiding justice and justices' clerk; and for that purpose, if such question shall arise on the trial while the case is pending before one of the other justices, such justice shall certify the same to the presiding justice. All abstracts and transcripts of judgments and proceedings in said court, or in any of the dockets or registers of or deposited in said court, shall be given and certified from any of such dockets or registers, and signed by the presiding justice and clerk, and shall have the same force and effect as abstracts and transcripts of justices of the peace in other cases. Appeals from judgments rendered in said court shall be taken and perfected in the manner prescribed by law, and the notice of appeal and all papers required to be filed to perfect it, shall be filed with the justices' clerk. Statements on appeal shall be settled by the justice who tried the cause. Sureties on appeal, or on any bond or undertaking given in any cause or proceeding in said court, when required to justify, may justify before any one of the justices.

Jurisdiction.

SEC. 65. The jurisdiction of the justices' court of such city and county extends to the limits of the city and county, and its process may be served in any part thereof.

Justice to aid presiding justice or clerk.

SEC. 66. The presiding justice, whenever in his judgment the prompt dispatch of business shall demand it, may require the aid of one of the justices of the peace in the discharge either of his own duties or those of the justices' clerk (the collection of fees, accounting for and paying the same into the treasury excepted), and each of the justices, when so required, shall, for the purpose, have the same power and authority as the presiding justice or clerk in whose aid he shall act; and any one of the justices, when required as aforesaid, may

act as a justice's clerk pro tempore during the temporary absence or disability of such clerk, with the same powers, duties, and responsibilities.

Justices' docket.

SEC. 67. In a suitable book, strongly bound, the justices' clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said justices' court, which book shall be a public record, and be known as the "Justices' Docket," in which docket the clerks shall make the same entries as are provided for in section nine hundred and eleven of the Code of Civil Procedure, and which said docket and entries therein shall have the same force and effect as is provided by law in reference to dockets of justices of the peace. To enable the clerk to make up such docket, each of the justices shall keep minutes of his proceedings in every cause returnable before or assigned or transferred to him for trial or hearing; and upon judgment or other disposition of a cause, such justice shall immediately certify and return the said minutes, together with all pleadings and papers in said cause, to the clerk's office, who shall immediately thereupon file the same, and make the proper entries under the title of the action in the docket aforesaid.

Proceedings—Rules.

SEC. 68. The justices' court and the justices of the peace of every such city and county shall be governed in their proceedings by the provisions of law regulating proceedings before justices of the peace, so far as such provisions are not altered or modified in this act, and the same are or can be made applicable in the several cases arising before them. The justices' court of such city and county shall have power to make rules not inconsistent with the constitution and laws for the government of such justices' court and the officers thereof; but such rules shall not be in force until thirty days after their publication; and no rule shall be made imposing any tax or charge on any legal proceeding, or giving any allowance to any justice or officer for services.

Continuation of former justices' court.

SEC. 69. All actions and proceedings pending and undetermined before the justices' courts of said city and county at the time of its organization under this act, shall be proceeded in, heard, and determined before the court herein provided for, and execution shall be issued thereon, and other proceedings had therein, whether before or after judgment, whether on appeal or otherwise, and the court provided for under this act shall be deemed to be a continuation of the same court before existing, and not a new court.

Officers not to practice.

SEC. 70. It shall not be lawful for any justice of the peace, the justices' clerk, or the sheriff, or any of his deputies, of such city and county, to appear or advocate, or in any manner act as attorney, counsel, or agent for any party or person in any cause, or in relation to any demand, account, or claim pending, or to be sued or prosecuted before said justices, or any of them, or which may be within their jurisdiction. A violation of the provisions of this section shall be deemed a misdemeanor in office.

Who may practice.

SEC. 71. No person, other than an attorney at law, duly admitted and licensed to practice in courts of record, shall be permitted to appear as attorney or agent for any party in any cause or proceeding before said justices, or any of them, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before one of said justices, or before some other offi-

cer authorized by law to take acknowledgment of deeds; which power of attorney, or a true copy thereof, duly certified by one of the justices aforesaid (who on inspection of the original, shall attest to its genuineness), shall be filed among the papers in such cause or proceeding.

Appointment of justices to make up complement.

SEC. 72. If, at the time of the organization of such city and county, under this act, there shall not be the complement of justices of the peace provided for in this act, the municipal council of such city and county shall appoint a suitable person or persons to fill such complement, and the person or persons so appointed shall hold office from his or their appointment, and until his or their successor or successors is or are elected or appointed and qualified.

POLICE COURT.

15,066. Police court jurisdiction.

SEC. 73. The police court of such city and county shall have jurisdiction:

First—Of an action or proceeding for the violation of any ordinance of such city and county.

Second—Of proceedings respecting vagrants and disorderly persons.

Criminal jurisdiction.

SEC. 74. The police court shall have jurisdiction of the following public offenses committed in such city and county.

First—Petit larceny, receiving stolen property, when the amount involved does not exceed fifty dollars.

Second—Assault or battery, not charged to have been committed on a public officer in the discharge of his duties, or with intent to kill.

Third—Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Fourth—Said court shall have jurisdiction of proceedings for security to keep the peace, and also, throughout such city and county, the same powers and jurisdiction in other criminal actions, cases, and proceedings as are now or hereafter may be conferred by law upon justices of the peace or justices' courts. The justices of the peace within the limits of such city and county shall not have power to try and decide any cases of the classes mentioned in this section, except as hereinafter provided, nor to hold inquests in cases of fire.

Cases for examination—Arrests—When judgments final.

SEC. 75. The said court shall also have power to hear cases for examination, and may commit and hold the offender to jail for trial in the superior court, and may try, condemn, or acquit, and carry its judgment into execution, as the case may require, according to law, and shall have power to issue warrants of arrest, subpoenas, and all other process necessary to the full and proper exercise of his power and jurisdiction. All fines imposed by the police court, not exceeding twenty dollars, exclusive of costs, shall be final and without appeal.

Contempts.

SEC. 76. The said court may punish contempts in the same manner and to the same extent as superior courts, and the laws concerning contempts applicable to superior courts and judges shall be applicable to said police court and judge.

Fines—Imprisonment.

SEC. 77. All fines imposed by the police court shall be paid into the treasury of such city and county, except in cases of prosecutions in behalf of the societies for the prevention of cruelty to children and animals. In cases where, for any offense, the said court is authorized to impose a fine, or imprisonment in the county jail, or both, it may, instead, sentence the offender to be employed in labor on the public works, or in the house of correction, or work-house, as the municipal council may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and may, in case a fine is imposed, embrace as a part of the sentence, that, in default of payment thereof, the offender shall be obliged to labor on said works, at said house of correction, or work-house, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied.

Clerk of police court.

SEC. 78. The police court shall have a clerk, to be appointed by the board of aldermen, who shall hold office during the pleasure of such board. The clerk shall keep a record of the proceedings of and issue all process ordered by said court, and receive and pay weekly into the treasury of such city and county all fines imposed by said court. He shall render to the city and county auditor monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account upon oath, accompanied with an exhibition of said record of all fines imposed and moneys collected since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the police judge or court, in cases not exceeding one thousand dollars; and he shall fix, justify, and accept bail after arrest, in the absence of the police judge, in all cases not amounting to a felony, in the same manner and to the same effect as though the same had been fixed by the police judge or court. The clerk shall remain at the court-room of said court during the hours required by law, and during such reasonable hours thereafter as may be necessary for discharging his said duty. He shall make a full sworn settlement with the auditor and treasurer once a week, filing an affidavit with such officers of its correctness; which affidavit shall show all the facts, and that no funds remain in his hands. Any violation of this provision shall be deemed a misdemeanor in office, and vacate the office, and such delinquency shall be reported by the treasurer and auditor to the municipal council, who shall appoint another person to fill the place forthwith. He shall take the constitutional oath of office, and give bonds with at least two sufficient sureties, to be approved in the same manner as the official bonds of other officers of such city and county, in the sum of at least ten thousand dollars, payable to such city and county, conditioned for the faithful performance and discharge of the duties of his office, and well and truly to account for and pay into the treasury of such city and county, as required by law, all moneys by him collected or received and by law designated for that use. A new and additional bond may be required by the board of aldermen whenever it may deem it necessary, and on failure to furnish such new and additional bond, within five days after it shall be required, the office shall become vacant. The said clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit, or proceeding in any court in and for such city and county, and to appoint a deputy clerk, for whose acts he shall be responsible on his official bond; the said deputy clerk to hold office during the pleasure of said clerk.

Justice to act as police judge, when.

SEC. 79. When, in the opinion of the police judge, from any cause, it shall be necessary that the business of the police court should be tried and disposed of by another judge, at his request one of the justices of the peace in this act provided for, other than the presiding justice of the justices' court, shall hold said police court, for the purpose of trying such cases as shall be by said police judge awarded to him to try; and such justice may try and dispose of such cases so awarded at any time, except on non-judicial days, whether said police judge shall be engaged in trying cases in said police court or not; and the municipal council shall provide suitable rooms in such city and county, in which such justice shall try cases so awarded to him to try.

Absence of police judge.

SEC. 80. In the absence or disability of said police judge, any of the justices of the peace, other than the one to whom shall be awarded cases for trial as aforesaid, shall be designated by the presiding justice of the justices' court, and shall during such absence or disability of said police judge perform all the duties of such judge, including the awarding of cases as aforesaid.

Prosecuting attorney of police court.

SEC. 81. There shall be appointed by the board of aldermen, an attorney and counselor of the supreme court of this State, as prosecuting attorney of the police court, who shall hold office during the pleasure of said board. The said prosecuting attorney shall have authority to appoint two assistants, who shall be attorneys and counselors of said supreme court. The prosecuting attorney and his assistants shall each take the constitutional oath of office, and give bonds, with at least two sureties, to be approved in the same manner as the official bonds of other officers of such city and county, in the sum of at least three thousand dollars, payable to such city and county, conditioned for the faithful discharge of the duties of their office.

Who may practice.

SEC. 82. No person other than an attorney at law, duly admitted and licensed to practice in courts of record, shall be admitted to practice as attorney or agent for any party in any cause or proceeding before said police court.

SALARIES.**15,067. Salaries not to be increased or reduced during terms.**

SEC. 83. The compensation or salary of any officer, provided in this act, shall not be increased or reduced after his election or during his term of office, and nothing in this act shall in any manner affect the salary of any officer in office at the time the same shall take effect, except that there shall be no increase thereof.

Salaries of officers.

SEC. 84. The salaries of the officers, clerks, deputies, or employes of such city and county, except as otherwise in this act provided, shall be as follows, and payable in monthly installments at the end of each and every month, viz.:

First—The salary of the mayor shall be three thousand dollars per annum; he may appoint a clerk, to be known as the mayor's clerk, whose salary shall be one thousand eight hundred dollars per annum.

Second—The salary of the sheriff shall be six thousand dollars per annum; he may appoint one under sheriff, whose salary shall be two thousand four hundred dollars per annum; one book-keeper, whose salary shall be two thou-

sand four hundred dollars per annum; he may appoint twenty-five deputies, each of whom shall receive a salary of one thousand six hundred dollars per annum, one of which said deputies shall be assigned to and perform the duties of assistant book-keeper; sixteen deputies, whose salaries shall be one thousand five hundred dollars per annum; one counsel, who shall be an attorney of the supreme court of the State, whose salary shall be one thousand eight hundred dollars per annum; one matron, whose salary shall be nine hundred dollars per annum; one driver of prison wagon, whose salary shall be nine hundred dollars per annum.

Third—The salary of the auditor shall be three thousand dollars per annum; he may appoint one deputy, whose salary shall be twenty-four hundred dollars per annum, and two clerks, at a salary of one thousand six hundred dollars per annum each.

Fourth—The salary of the treasurer shall be three thousand dollars per annum; he may appoint one chief deputy, whose salary shall be twenty-four hundred dollars per annum, and one deputy, whose salary shall be two thousand one hundred dollars per annum.

Fifth—The salary of the tax-collector shall be three thousand dollars per annum; he may appoint one chief deputy, one cashier, each of whom shall receive a salary of two thousand dollars per annum, and ten permanent deputies, whose salary shall be one thousand six hundred dollars per annum each.

Sixth—The salary of the assessor shall be three thousand dollars per annum; he may appoint one chief office deputy, one chief field deputy, and one head draughtsman, each of whom shall receive a salary of two thousand dollars per annum; an assistant draughtsman, who shall receive a salary of eighteen hundred dollars per annum; and eleven office deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum. He may also appoint such additional deputies as may be allowed by the municipal council, at salaries not to exceed five dollars per day each for such time as they may be employed.

Seventh—The salary of the recorder shall be three thousand dollars per annum; he may appoint one chief deputy, whose salary shall be twenty-four hundred dollars per annum, and two deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum; also, two porters, who shall perform the duties of watchmen, each of whom shall receive a salary of nine hundred dollars per annum.

Eighth—The salary of the county clerk shall be three thousand dollars per annum; he may appoint deputies as follows: One chief deputy, whose salary shall be two thousand four hundred dollars per annum; twelve court-room clerks, twelve registry clerks, each of whom shall receive a salary of twenty-one hundred dollars per annum; twelve assistant registry clerks, each of whom shall receive a salary of one thousand six hundred dollars per annum; and twelve copyists, each of whom shall receive a salary of one thousand six hundred dollars per annum; and such county clerk, when the exigencies of his office shall require, may, in his discretion, employ such additional copyists as shall be necessary, at a compensation not to exceed three dollars per day for the days of actual service; provided, said number shall not exceed at any one time three copyists for each judge of the superior court, to be paid from the treasury in the same manner as the salaries herein provided for are to be paid.

Ninth—The salary of the district attorney shall be four thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme

court of this State, each of whom shall receive a salary of twenty-four hundred dollars per annum; and two clerks, who shall be attorneys of the supreme court of the State, each of whom shall receive a salary of fifteen hundred dollars per annum.

Tenth—The salary of the city and county attorney shall be four thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this State, each of whom shall receive a salary of twenty-four hundred dollars per annum; and one copyist, who shall receive a salary of nine hundred dollars per annum.

Eleventh—The salary of the coroner shall be three thousand dollars per annum; he may appoint two deputies, one to act as first deputy, whose salary shall be one thousand six hundred dollars per annum; the other to act as second deputy, and whose salary shall be one thousand five hundred dollars per annum; and one messenger, to take charge of the dead wagon, and perform such other duties as are required by the coroner or his deputies. The salary of the messenger shall be nine hundred dollars per annum.

Twelfth—The salary of the superintendent of streets shall be three thousand dollars per annum; he may appoint twenty deputies; three of said deputies shall receive a salary of two hundred dollars per month each, and seven of said deputies shall receive a salary of one hundred and fifty dollars per month each, and ten of said deputies shall receive a salary of one hundred and twenty-five dollars per month each.

Thirteenth—The salary of the city and county surveyor shall be three thousand dollars per annum; he may appoint as many deputies, not to exceed four, as the municipal council shall from time to time determine are necessary, who shall receive such compensation as such municipal council shall provide, not to exceed the sum of five dollars per day when actually employed.

Fourteenth—The salary of the superintendent of schools shall be three thousand dollars per annum.

Fifteenth—The salary of the police judge shall be four thousand dollars per annum.

Sixteenth—The salary of the prosecuting attorney of the police court shall be twenty-four hundred dollars per annum, and his two assistants shall each receive a salary of one thousand five hundred dollars per annum.

Seventeenth—The salary of the presiding justice of the justices' court shall be three thousand dollars per annum, and each of the other justices of the peace shall receive a salary of two thousand four hundred dollars per annum.

Eighteenth—The salary of the clerk of the justices' court shall be two thousand four hundred dollars per annum; his two deputies shall each receive a salary of one thousand two hundred dollars per annum.

Nineteenth—The salary of the collector of licenses shall be three thousand dollars per annum; he may appoint one chief deputy, who shall receive one thousand eight hundred dollars per annum, and twelve deputies, who shall receive a salary of one thousand five hundred dollars per annum each.

ELECTIONS.

15,068. *Election commissioner—Deputies and clerks.*

Sec. 85. The salary of the election commissioner shall be three thousand dollars per annum; he may appoint one deputy, who shall receive a salary of one thousand eight hundred dollars per annum; and the board of election di-

rectors may appoint such other deputies and clerks as may be necessary, who shall receive such compensation as such board shall fix therefor.

Board of election directors.

SEC. 86. The conduct, management, and control of elections, and matters pertaining to elections, in such city and county, shall be vested in a committee of five members, three of whom shall be chosen by and from the board of aldermen, and two of whom shall be chosen by and from the house of delegates, which committee shall be and be known as the board of election directors, which board shall have the direction, charge, and supervision of all matters pertaining to elections; and the election commissioner hereafter provided for, shall be ex officio secretary of said board, and shall give advice and information to said board when required by them so to do.

Election precincts.

SEC. 87. The board of election directors shall, on or before the first day of July preceding each general election, divide such city and county into election precincts, of which there shall be so many as shall be sufficient to make the number of votes polled at any one election precinct to be not more than three hundred nor less than two hundred, as near as can be ascertained, and arranged, using streets and avenues as boundaries, preserving, as near as practicable, the numerical designation of the precinct as known in each ward and senatorial district in the preceding precinct division.

Election commissioner—Office and bond.

SEC. 88. The person acting as registrar of voters for such city and county at the time of the passage of this act shall perform the duties of the election commissioner, as prescribed by this act, and he shall hold the office of election commissioner of such city and county during the pleasure of the appointing power. In case of vacancy in the office of election commissioner, by removal or otherwise, the governor shall, by appointment, fill such vacancy. The municipal council shall provide a suitable office for said election commissioner, and such allowance for stationery, printing, and incidental expenses as shall be necessary. The election commissioner shall give bond, with at least two sureties, in the sum of ten thousand dollars, conditioned for the faithful performance of his duty, and the duties of his deputies and clerks, which bond shall be approved in the same manner as other bonds.

Powers and duties of election commissioner.

SEC. 89. The election commissioner, when appointed and qualified, shall be clothed with all the powers, discharge all the duties, and be liable to all the obligations and official consequences belonging to, discharged by, or resting upon the county clerk of counties in other cases, with respect to the registration of voters and other matters pertaining to elections in such city and county under the provisions of the Political Code of this State, so far as the same are not annulled by this act. All officers or persons in such city and county heretofore exercising any duties in reference to registration of votes or elections, upon demand shall transfer and deliver to said election commissioner all registers, records, books, documents, and things belonging or in any wise appertaining to the registration of voters, or other election matters in such city and county; provided, the county clerk shall continue to administer oaths of office, issue certificates of election, and act in matters of election contest, as prescribed by the Political Code; and the registrar shall file with the county clerk a certificate of the official canvass of elections, as prescribed by law in such cases.

Registration of voters.

SEC. 90. The said election commissioner shall be in attendance, except when absent on official duties, and keep his office open for business every day in the year (Sundays and legal holidays excepted), from nine o'clock A. M. till five P. M. It shall be unlawful for the election commissioner, his deputy, or clerks, to register citizens at other times or in other places than his office, as provided by law. All registration of voters must be done where the public may have easy access, without disturbing, or interfering, or retarding an honest execution of the law. The commissioner and his deputy, as well as clerks, not to exceed eight in number, engaged in the registration of voters, and the board of election directors, as well as the boards of precinct registration appointed by said board, shall have power to administer oaths and affirmations in all matters touching elections, the duties of their offices, and the registration of voters, or inquiry into their qualifications.

Duty as to precinct registers.

SEC. 91. The election commissioner shall constantly inform himself by examination and inquiry as to the condition of the precinct registers, and the legality of the names therein or demanding to be placed thereon, and shall see that none but legal voters are registered. Should the election commissioner have reason to believe that any name or names upon the precinct register is improperly or illegally there, it shall be his duty forthwith to send a written or printed notice, by postal card or otherwise, to such person, directing the same to his address, as found in the directory; or in case his name is not in the directory, then the address of such person opposite the name on the register on the last preceding election at which such name was voted, requiring such person to show cause before the board of election directors why said directors shall not cancel such name. If such person fail for five days to appear and establish the legality of such name on the day fixed for the hearing, and on the certificate of the election commissioner that notice and publication in accordance herewith has been made, the board shall inquire into the case, and if it appears to the satisfaction of the board that such name is improperly upon the precinct register, then said board shall make and enter an order directing the election commissioner to cancel such name or names; but the parties may appear before said board, at the hearing, and show cause against said order; and if the board finds them properly registered, or entitled to registry, an order shall be made accordingly, which shall be final. The board may designate any one of the directors to hear and determine such matters.

Lists of deaths, removals, etc.

SEC. 92. The election commissioner shall keep in his office a list of all deaths occurring in such city and county of adult males, as well as the deaths of such citizens as may come to his knowledge who may die elsewhere, to be alphabetically arranged for convenience of reference. Also, all removals or changes of residence, so far as he can learn the same, and commitments to prisons and insane asylums, with time and place, as well as such other information as shall be found useful and within his reach. It shall be the duty of all clerks of courts, prison keepers, health officers, and all other public officers, and others, on demand, to furnish to said election commissioner certified statements of such official facts within their knowledge necessary to obtain information in and about his said duty.

Duty as to election officers.

SEC. 93. The election commissioner, under and subject to the rules of the board, must take charge of the business of placing the election officers, and at the last moment, when it is too late to call the board together to fill vacancies, may select and appoint election officers for said purpose. Should any election officer fail to appear at the opening of any election, or at any time during the progress thereof, the officers in attendance may, subject to such rules as the board of election directors shall provide, fill up the same by appointing any competent citizen from the political party to which the person whose position has been vacated belongs. Any person refusing to serve when so appointed, shall be liable to all the pains and penalties of this act.

Registration and election—Proceedings to be public.

SEC. 94. The registration of voters, counting of votes or ballots, and all proceedings connected therewith, shall be in public, and citizens of orderly and good conduct shall have free ingress and egress to and from the place where the same is being done. Any election officer, or other person, who shall hinder or impede any citizen in his right to free entrance to the polling place, and to observe and watch the counting of votes or ballots, shall be deemed guilty of a misdemeanor, and, on conviction, punished accordingly.

Who to serve as officers of election.

SEC. 95. It is hereby made the duty of any and all voters in such city and county (persons holding office or employment under the United States, the State of California, or such city and county, or any of its departments, excepted) to serve as judges, inspectors, and clerks, or other officers of election, whenever required to do so under the provisions of this act.

Lists of persons qualified to act as officers of election.

SEC. 96. It shall be the duty of the election commissioner to obtain from the property tax list and register of voters of such city and county, the names of the resident citizens of said city and county possessing the necessary qualifications to act as judges, inspectors, and clerks of election, taking care to select persons of good reputation and character, and have the same placed in a book so as readily to refer to the places of residence, and the precinct in which they vote. He shall take care that said list shows the names and residences of all property taxpayers who reside in such city and county, and who are voters, and shall ascertain, as nearly as he can, the capabilities of such voters to act as election officers.

Selection of officers of election.

SEC. 97. Said board of election directors shall select all election officers provided for by law for such city and county, and shall appoint them to their respective places, who must be registered voters, and able to read, write, and speak the English language understandingly. They shall have the power to make any regulations and rules for the appointment or selections they may deem advisable, so as to secure integrity, impartiality, and capacity for the work to be done; and if the list furnished them by the election commission does not contain a sufficiency of names of respectable and fit persons for election officers, they must take measures to secure the names of proper persons, citizens, and voters of such city and county, and to fill up all appointments hereinafter provided; provided, that in selecting election officers the directors shall take care to select as nearly as possible, an equal number of persons of opposite political faith and opinions to serve at each precinct.

Compensation of officers of election.

SEC. 98. Each election officer under this act shall be entitled to receive for his services the sum of three dollars per day while actually engaged in said work of receiving and counting votes, to be paid out of the treasury of such city and county, in the manner provided by law for the payment of such service, and no more; provided, that said board of directors may, in their discretion, raise the compensation of clerks for tallying, writing, and other matters requiring special skill and qualifications, to such sum as they shall find necessary to secure such service, but not to exceed four dollars per day; provided, that such increased compensation shall, under no circumstances, be allowed to any judge or inspector; and provided further, that no person holding any office or employment under the United States, the State of California, or such city and county, or any of its departments, nor any candidate for office, or who shall have been either thereof within ninety days, shall be eligible to or allowed to serve as an election or registration officer, clerk, or in any manner whatsoever at an election; provided, that the members of the precinct registration boards shall receive for their services while acting upon the precinct registers the sum of forty dollars each in full for such service, and no more.

Notice of appointment as officer of election.

SEC. 99. Each and every person selected by the board of election directors shall be notified by the election commissioner of the fact of his appointment; such notice shall be in writing, or printed, and shall have printed thereon a copy of this section, and may be served by postal card or otherwise. Such person so notified shall appear within the time fixed in the notice, but which shall not be less than five days, before the election commissioner, and at least one of the directors, for the purpose of examination, and if found qualified, shall, unless excused by said director by reason of ill health, or other good and sufficient cause, be bound to serve as such officer for the term of one year from the date of his appointment, unless previously excused or dismissed by the board; and in case of neglect or refusal to comply with the above mentioned requirements, or to serve or act, shall be liable to a penalty of five hundred dollars, recoverable by civil action in any court of competent jurisdiction in the name of such city and county; and when collected shall be paid into the treasury for the benefit of the proper fund. And a failure on the part of any such person to present himself for examination, and to comply with any of the requirements of this act, preliminary to receiving his certificate of appointment, within the time prescribed, or to attend on the day of registration, or revision, or examination of registration, or the day of any election during said term, unless prevented by sickness or other sufficient cause, shall be deemed a refusal within the meaning of this section.

Registration by election precincts—Precinct registers.

SEC. 100. The registration of electors in such city and county shall be done by election or voting precincts. The provisions of the Political Code requiring the keeping of a great register and ward registers shall not be applicable to such city and county. The provisions of said Code as to making and keeping the great register, and as to the ward registers, and the manner of entering names therein, and the substance and contents of said entries, and the alterations, changes, and cancellations thereof, as well as the proceedings and proof to enable voters to be registered in said great register and ward registers, and all matters relating thereto, so far as the same are not in conflict or inconsistent

with the provisions of this act, shall be applicable to the precinct registers of such city and county. And said precinct registers shall be used at all elections, and no person shall vote at any election except he be legally registered upon the precinct register of the precinct in which he is a qualified voter and where he offers to vote.

Registration previous to each general election.

SEC. 101. The registration of electors in the precinct registers in such city and county shall take place previous to each general election, as herein provided, and an elector properly enrolled therein, without being again enrolled, may, if he has not removed from such precinct, vote at the general election ensuing his registration, and at all special elections between said general election and the next general election, but not afterwards until reregistered according to law.

Precinct registers, what to contain.

SEC. 102. In addition to the matters required by the Political Code to be entered in the register, the precinct registers in such city and county shall particularize the place of residence of each elector registered, by specifying the name of the street, avenue, or other location of the dwelling of such elector, with the name or number of such dwelling, if the same has a name or number, and if not, then with such description of the place that it can be readily ascertained and identified. If the elector be not the proprietor or head of the house, then it must show that fact, and upon what floor thereof, and what room such elector occupies in such house; all of which facts are to be ascertained from such elector in the manner required by law for proving the qualification of electors to entitle them to be registered. Any person making a false oath with respect to residence, or any other fact lawfully demanded of him, as provided for in this act, shall be deemed guilty of perjury, and, on conviction, punished accordingly.

Blanks for precinct registers.

SEC. 103. A sufficient quantity of blanks for precinct registers for all the precincts of such city and county, shall be prepared and kept by said election commissioners at his office, so that voters may be registered, upon application and proper proof, according to law. Ninety days before each general election the election commissioner shall commence the registration of all voters entitled thereto, who apply with the proper proof, and no others. Such voters shall be registered in the precinct registers, for the precinct where they are entitled to vote, and not otherwise. Such registration shall continue at the office of the election commissioner until the precinct registers are turned over to the board of precinct registration, as hereinafter provided for, when it shall cease at said office. Such registration shall be made subject to the rules herein provided for the board of precinct registration.

Boards of precinct registration.

SEC. 104. There shall be a board of precinct registration in each precinct in such city and county, which shall be constituted in the following manner: The board of election directors shall, in the months of August and September preceding any general election, have divided the city and county into election precincts as hereinbefore provided for, shall proceed, in the manner provided in this act, to appoint the one original inspector and the two original judges of election provided for by the Political Code, for each precinct. Said inspector and judges shall serve for one year, unless otherwise ordered by the directors,

and in addition to acting as election officers at all elections during the year, shall serve as precinct registering officers for enrolling the election of their respective precincts on the precinct registers thereof. All other election officers shall be appointed by the board of election directors, at such time as shall be necessary before the election.

Meetings of boards of precinct registration.

SEC. 105. Said boards of precinct registration shall meet in the places provided in their respective precincts for such purpose by the election commissioner, commencing five days (not counting Sundays or legal holidays) before the day fixed by this act for the cessation of the registration of electors in such city and county, and shall sit in open session from nine o'clock A. M. until ten o'clock P. M. of each day, until the day of such cessation (Sundays and legal holidays excepted), to receive and act upon applications for registration on the part of the voters of said precinct. They shall organize by electing one of their number chairman. They shall receive the applications for registration of such male residents of their several election precincts as then are, or on the day of election next following the day of making such application would be, entitled to vote therein, and who shall personally present themselves, with proper evidence of their rights, and such only; provided, they shall not register citizens who have lost or who are not in possession of their naturalization certificates or papers.

Duty of election commissioner as to precinct registration.

SEC. 106. It shall be the duty of the election commissioner to provide suitable places in each precinct for the sessions of the board of precinct registration. He shall also furnish them with blanks, stationery, and all other matters and things necessary to enable them to conveniently and speedily perform the duties devolving upon them under this act. He shall also give such boards his assistance and advice in organizing and conducting the registration of voters, and other matters required of them by law, and shall visit said boards, while engaged in said duty, and see that said proceedings are conducted according to law, and the registers made in due form. He shall be allowed free access to the precinct registers at all times; and within such reasonable limits as the board of election directors shall prescribe, the public shall have access thereto in like manner. The members of the boards of precinct registration shall have power to administer oaths and affirmations, as shall all election officers, and to take testimony, in the discharge of their duties.

Duties of boards of precinct registration.

SEC. 107. As soon as the boards of precinct registration shall have commenced their sittings for registration in the several precincts, as herein provided for, three precinct registers shall be delivered by the election commissioner to said respective boards, who shall keep one register and personally make entries therein, go on with the registration of voters at the places provided by law for them in their respective precincts until the time provided by law for registration to cease, when all registration shall stop, except in the cases especially provided for in this act. It shall be the duty of the board of precinct registration, in addition to their other duties, to carefully examine and revise the names of voters upon their several precinct registers, as delivered to them by the election commissioner, and to ascertain if such names are the names of legal voters, properly on said precinct register, and entitled to vote in said precinct. The boards of precinct registration, on each day of registration, and before adjourn-

ing, shall, on each of the registers, draw, in ink, immediately below the last number and name entered in the allotted space of each letter of the alphabet, and below the last written words and figures entered opposite to or against such name, a heavy line, as indicative of the fact that the entering of names on the said registers for the day mentioned in the column headed "date of application," and opposite to or against the name last entered, then ceased.

Applications for registration in exceptional cases—Appeals.

Sec. 108. The boards of precinct registration shall keep the several precinct registers for such time as shall be necessary, not to exceed three days after the time for registration ceases according to law, during which time they shall hear and determine applications for registration in the excepted cases provided for in this act. They shall also make diligent examination and inquiry during said period as to the right of the respective voters, who have been registered on said precinct register, to such registration, and shall in all doubtful cases certify their doubts, with the reason thereof, to the board of election directors, for further action. All persons who have been refused registration by the election commissioner, or by the precinct board, can appeal to the board of election directors, who shall hear and determine the same in a summary manner, so as not to delay the completion of the registers.

Delivery of precinct registers to election commissioners.

Sec. 109. When the board of precinct registration have completed the examination and inquiry provided for in the preceding section, they shall certify the precinct register as is hereinafter provided, and deliver the same to the election commissioner. Such delivery shall be made not later than three full days after the cessation of registration, as provided by law. They shall at the same time prepare and duly certify a separate and distinct list, showing the names of all persons concerning whose right to registration they are in doubt, together with the grounds and reasons for such doubt. Such list and certificate shall be delivered to the election commissioner at the same time with the precinct register. Proper blanks shall be prepared and furnished by the election commissioner for the purpose of making the return of doubtful names on the registers, and also blank certificates, and all other necessary things for said purpose. The registers, written by the judges, shall be retained and securely kept by the inspector for use on the day of election, and shall be the registers used by the board of election during the polling of the vote, as prescribed in the Political Code; and said registers shall be delivered to the election commissioner, with the election returns, on the conclusion of the canvass of the votes polled.

Certificate to precinct register.

Sec. 110. The certificate to be attached to the precinct register shall be substantially in the following form, to wit: "We, the undersigned, inspectors and judges of election forming the board of precinct registration for the — Precinct of the — Ward of the City and County of —, do jointly and severally certify that on the — day of —, 18—, we met and organized as such board, at the place appointed by law for the holding thereof in said precinct. That the precinct register was delivered to us by —, Esquire, election commissioner for such city and county, containing at the time of its delivery to us the names of (stating number) voters. That we have examined and inquired into said list to the best of our ability, and have noted all doubtful registration thereon. We also certify that we sat as a board of precinct registration at said

place, —, from the — day of —, till the — day of —, 18—, and have admitted to registration (showing number) citizens, whose names and other matters of qualification will appear upon the foregoing register, and that the whole number of qualified voters upon said register is (number).

“Dated —, 18—.

“(Signed),

“(Signed),

“(Signed),

—.

—.

—.”

Certificate to list of doubtful names.

SEC. 111. The certificate to be annexed to the list of doubtful names shall be substantially in the following form, to wit: “We, the undersigned, composing the board of precinct registration for the — Precinct of the — Ward of the City and County of —, hereby certify that the accompanying list shows all the names and other matters of qualification of voters upon the precinct register for said precinct about whose right to registration we entertain a reasonable doubt, together with a statement of the cause or grounds for such doubts.

“Dated, —, 18—.

“(Signed),

“(Signed),

“(Signed),

—.

—.

—.”

Citation of persons certified as doubtful.

SEC. 112. It shall be the duty of the election commissioner to forthwith notify all persons certified as doubtful of said fact, and to cite them before the board of election directors, as provided in this act, in cases where the election commissioner has reason to believe persons have been improperly registered, and the same proceedings shall be had as to citation and cancellation as provided for in said section.

Close of registration.

SEC. 113. Fifteen days before a general election all registration or enrollment of voters shall cease, and the precinct registers, as they stand, shall be the precinct registers for said ensuing election, and until the next general election, subject only to changes in the following cases:

I. All that for any reason are illegally on the precinct registers, shall be canceled.

II. Any name that has been once lawfully on the precinct register, so as to entitle the person to vote at said ensuing election, and which has been by fraud, mistake, or otherwise improperly removed or canceled, may be restored on proper evidence thereof.

III. Any legal voter who applied in time for enrollment on a precinct register, and through any fault or neglect of the election commissioner, or board of precinct registration, or for want of time on the last day, he having duly applied and produced the necessary and legal proof of his right on said day, has his name left off, may have the same put on afterwards on showing that he applied in time, and that it was through no fault or neglect of his own that it was left off.

Any voter entitled to have his name on the precinct register under the terms of either of the two preceding subdivisions, and no others, may have the same placed upon the supplementary register provided for in the next section, within five days from the time herein provided for the cessation of enrollment on the precinct register. Any person who does not so apply, within said time, shall

not be enrolled on the precinct register of said election; provided, that nothing in this section shall be deemed to prevent any lawful changes, additions, and supplements to said precinct registers after the general election and prior to any special election thereafter, to be made under the regulations fixed by the board of election directors, and to be used at other than general elections.

Printing of precinct registers.

SEC. 114. As soon as the election commissioner shall receive the precinct register from any board of precinct registration, he shall proceed with the greatest diligence to cause said precinct register to be printed, and the same shall be printed and copies of them posted in his office for public inspection within six days. He shall also ascertain the correctness of said precinct registers, and cancel all names not legally thereon; and shall prepare a supplemental list for each precinct showing the cancellations and addition to the regular list made after the publication of the same, which supplemental list shall be printed and posted, in like manner, five days before the election, after which no changes shall be made; provided, that all cancellations and additions to the registers made by the election commissioner shall be subject to the approval of the board of election directors.

Advertisement of time of closing registration.

SEC. 115. Not less than ten days before the day for the sitting of the boards of precinct registration, the election commissioner shall cause an advertisement to be printed, for ten consecutive days, in three daily morning and three daily evening newspapers, and a weekly (including the official paper) published in such city and county, giving notice to the voters of such city and county that the time for the enrollment of voters on the precinct registers will expire on a certain day, naming the day fixed in this act for the last day of registration, and inviting them to present themselves for registration at the place of the meeting of said boards, which shall be named, within the time, under the penalty of being debarred the privilege of voting at such election. Such notice shall specify the day upon which the precinct registration by the board of precinct registration shall commence, and also the day upon which it is to end.

Renewing of registration.

SEC. 116. Any elector who has been legally registered in the precinct register, provided he has not lost his right to vote in his precinct, shall not be required to renew such registration until the making up, as herein provided, of the precinct register for the next ensuing general election after the election for which such registration was made, but may vote in such precinct at any election taking place before such general election. The precinct registers shall be printed in sufficient numbers to allow for their being used at all the elections likely to occur before the next general election after the one for which the registration is made, and all necessary changes or additional names shall be noted upon the register for each special election thereafter, or added into supplements thereto, conformatory, so far as the same is applicable, to the provisions of the law governing the making of the general election register. The board of election directors are empowered to make rules governing such supplemental registration for special elections.

Rooms for registration and polling places.

SEC. 117. The election commissioner shall procure rooms or places both for the sitting of the board of precinct registration as well as for polling places,

subject to the approval of the board of election directors, both as to location and cost.

Expenses of registration and election.

SEC. 118. All provisions for carrying out the registration and election laws in such city and county shall be made by the board of election directors, and demands on the treasury authorized or allowed by them for such purposes shall be paid in the same manner as other demands, after approval of the same by the municipal council.

Election laws.

SEC. 119. All the provisions of the Political Code touching the registration and qualification of voters; and the method of calling, holding, and conducting elections in force in such city and county, shall continue in force therein, so far as they are not inconsistent with the provisions hereof, until repealed or modified.

Piece clubs—Unlawful assessments—Misdemeanor.

SEC. 120. It shall be unlawful for any committee, club, convention, or other association formed or acting as such, for the purpose of nominating a candidate or candidates for office in such city and county, to levy, assess, collect, demand, or receive, directly or indirectly, any money or other valuable thing, from any candidate or candidates coming before such body for a nomination, or who shall be nominated by them for office, upon any pretense whatsoever. Any officer or member of any such convention, committee, club, or association, or other person, who shall vote for, authorize, assist, or consent to any such demand, levy, assessment, or collection, or any candidate or person who shall pay the same, shall be deemed guilty of a misdemeanor, and on conviction in any court of competent jurisdiction, punished accordingly.

POLICE DEPARTMENT.

15,069. Police commissioners.

SEC. 121. There shall be in every such city and county a board of police commissioners, consisting of three commissioners, to be appointed by the board of aldermen. The first three commissioners appointed under this act shall, immediately after their appointment, so classify themselves by lot that one of them shall go out of office in two years, one of them in three years, and one of them in four years after his appointment, and thereafter on the expiration of the term of office of any one of said commissioners. The said board shall appoint a commissioner to fill the office, who shall hold office for four years; provided, however, that the board of police commissioners now in office shall continue to hold office for the term of four years from the date of their appointment.

Meeting and organization of board.

SEC. 122. The said board of police commissioners shall meet in such city and county within ten days after the taking effect of this act, and shall organize by electing one of their number as president.

Appointment of chief and captains of police, and policemen.

SEC. 123. The board of police commissioners shall appoint one chief of police, six captains of police, and as many police officers, not exceeding five hundred, as they may determine to be necessary. In making such appointments the board shall not regard the political or partisan preferences or affiliations of the candidate or appointee; and it shall be the duty of such board, on its first organization under this act, to appoint as members thereof the members of any

police force which shall be in service in such city and county at the time this act goes into effect, unless such persons be incompetent, or be incapable to serve.

Qualifications of policemen.

SEC. 124. Any person applying for appointment as a police officer under this act, unless he be a member of the police force existing in such city and county at the time this act goes into effect, shall produce and file with the board of police commissioners a certificate, signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of such city and county, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that he is of good repute for honesty and sobriety, and they believe him to be in all respects competent and fit for the office. All such certificates shall be preserved in the office of said board, and shall not be returned to the applicant. Every appointee to such police department must be a citizen of the United States and of this State, and of good character for honesty and sobriety; able to read and write the English language, and a resident and qualified voter of the city and county in which he applies for appointment; and in case he be not a member of a police department existing in such city and county at the time this act goes into effect, he shall be under the age of fifty-five years, and not less than five feet seven inches in height; and after his nomination, and before his appointment, shall pass a thorough examination by any reputable physician designated by said board of police commissioners, and be found, on such examination, to be in sound health, and to possess the physical qualifications required for recruits for the United States army.

Powers of chief of police.

SEC. 125. In the suppression of any riot, public tumult, disturbances of the public peace, or organized resistance against the laws or public authorities in the lawful exercise of their functions, the chief of police shall have all the powers that now are or may be conferred upon sheriffs by the laws of this state, and his lawful orders shall be promptly executed by all police officers in such city and county; and every citizen shall also lend him aid, when required, for the arrest of offenders and the maintenance of public order. He shall keep a public office, which he shall open, and at which he, or in case of his necessary absence, a captain of police, or police officer by him designated for that purpose, shall be in attendance at all hours, day and night. In case of his necessary absence from his office, it shall be made known to the police officer in attendance where he can be found if needed. He shall designate one or more out of the number of police officers to attend constantly upon the police court, to execute the orders and process of the said court. He shall supervise and direct the police force of such city and county, and shall observe and cause to be observed the provisions of this act, and enforce within such city and county all general and local laws. He shall see that the lawful orders and process issued by the police court are promptly executed, and shall exercise such other powers connected with his office, as head of police, as may be prescribed in the general regulations adopted by the municipal council or the board of police commissioners. He shall acquaint himself with all statutes and laws in force in this State defining public offenses and nuisances and regulating criminal proceedings, and shall procure and keep in his office the statutes of this State and of the United States, and all elementary works on that subject. He shall give information and advice touching said laws gratuitously to all police officers and magistrates asking it.

Police officers not to do certain things.

SEC. 126. Neither the chief of police, captains, or any officer of police shall devote their time to any other profession or calling, become bail for any person charged with any offense whatever, nor solicit counsel or attorneys for prisoners, receive any presents or reward for official services rendered or to be rendered, unless with the knowledge and approbation of a majority of the police commissioners, such approbation to be given in writing; nor to be allowed pay for any period during which they shall absent themselves from public duty, unless such absence necessarily result from indisposition or disability, occasioned by injuries suffered while in the discharge of official duty.

Duties of police officers.

SEC. 127. Police officers in subjection to the orders of their respective captains, and all under the general direction of the chief of police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbances of the public peace, the execution of process from the police court, in causing the abatement of public nuisances, and the enforcement of the laws and regulations of police.

Additional police in case of emergency.

SEC. 128. In case of great public emergency or danger, the chief of police may appoint an additional number of policemen of approved character for honesty and sobriety, who shall have the same powers as other police officers for twenty-four hours only, but without pay.

Salaries of commissioners and officers—"Police Life and Health Insurance Fund."

SEC. 129. The salaries of the officers who shall be appointed under this act shall be as follows, and payable in monthly installments, at the end of each and every month, viz.:

1. The president of the board of police commissioners shall receive a salary of one thousand five hundred dollars per annum; the other two police commissioners shall each receive a salary of one thousand two hundred dollars per annum.

2. The chief of police shall receive a salary of four thousand dollars per annum.

3. Captains of police shall each receive a salary of one thousand eight hundred dollars per annum.

4. Police officers who shall be selected to act as sergeants of police shall each receive a salary of one thousand five hundred dollars per annum.

5. The police officers who shall be selected to act as detective police officers shall each receive a salary of one thousand five hundred dollars per annum.

6. The clerk of the chief of police shall receive a salary of one thousand eight hundred dollars per annum.

7. The property clerk shall receive a salary of one thousand eight hundred dollars per annum.

8. Police officers not selected to perform the duties of sergeants of police, of detective police officers, of clerk of chief of police, or of property clerk, shall each receive a salary of one thousand two hundred and twenty-four dollars per annum, subject to the condition that the treasurer of such city and county shall detain from the pay of each police officer the sum of two dollars per month, to be paid into a fund to be known as the "Police Life and Health Insurance Fund," which fund shall be administered as hereinafter provided.

Police life and health insurance board.

SEC. 130. The mayor, auditor, and treasurer of any such city and county, shall constitute a board known as "The Police Life and Health Insurance Board." The said board shall, from time to time, as in their judgment may be best, invest the moneys of "The Police Life and Health Insurance Fund," in such of the following securities as shall seem the most safe and profitable, namely: The bonds of the City and County of San Francisco; the bonds of the State of California; the bonds of the United States of America; and the securities shall be held by said treasurer, subject to the order of said board; and the said treasurer shall have no power to deposit, pledge, or in any other way part with the possession of said securities, or the evidence thereof, except on the order of said board. Upon the death of any member of such police force, there shall be paid by the treasurer, out of said "Life and Health Insurance Fund," to the heirs of said police officer, the sum of one thousand dollars.

Payments from "Fund" in case of resignation.

SEC. 131. In case any police officer shall resign from bad health or bodily infirmity, there shall be paid to him from said fund the amount of the principal sum which he shall have contributed thereto.

Payments from "Fund" in case of dismissal.

SEC. 132. In case of dismissal of any police officer for mere incompetency, not coupled with any offense against the laws of the State, such officer shall be paid from said fund such amount as the board may award, not exceeding one half of the sum he may have contributed to said fund.

Forfeiture of payment.

SEC. 133. Any officer dismissed for gross neglect or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

Registry of demands on "Fund."

SEC. 134. In case such fund shall not be sufficient to pay the demand upon it, such demand shall be registered and paid in order of its registry out of the funds as received.

Services of mayor, auditor, and treasurer.

SEC. 135. The said mayor, auditor, and treasurer shall receive no compensation for their services as members of said board, nor shall the said treasurer receive any compensation as treasurer and custodian of said funds, but he and his sureties on his official bonds shall be liable at the suit of any person or persons aggrieved for any loss of said fund, or the misappropriation of any securities of "The Police Life and Health Insurance Fund."

Term of chief of police.

SEC. 136. The term of office of chief of police shall be four years from the time of his appointment.

Removal of policemen.

SEC. 137. Members of the police force, other than the chief of police, shall be subject to removal only upon trial before said board for official negligence, inefficiency, misconduct, oppression, or any conduct unbecoming a gentleman. Charges of official negligence, inefficiency, misconduct, oppression, or any conduct unbecoming a gentleman, when presented by the chief, or a captain, or sergeant of police, or by a citizen of such city and county, in a verified complaint, and setting forth the specific acts complained of, shall be received and be attentively considered and determined by the board of police commissioners,

giving to the accused due notice, and an impartial hearing in defense; and on such proceeding said board may reprimand, suspend from pay, or dismiss the delinquent officer. Frequenting drinking houses or saloons by regular or special members of the police during the hours assigned for duty, shall be deemed to be official negligence, for which they may be suspended or removed.

Administration of oaths.

SEC. 138. The president of the board of police commissioners and chief of police shall have power to administer oaths and affirmations relating to their official duties.

Clerks, detectives, and sergeants of police.

SEC. 139. The chief of police shall have power to select and designate one police officer to serve as clerk to the chief of police, and one police officer to serve as property clerk, and twelve detective officers. The sergeants of police shall be selected by the board of police commissioners, and perform such duties as may be designated by said board, or the chief of police.

Ineligibility of police commissioners to other office—Policemen not to be politicians.

SEC. 140. No member of said board of police commissioners, appointed as herein provided for, shall be eligible to any other office during his incumbency of the office of police commissioner. No member of said board of police commissioners shall, during his term of office, be a member of any party convention, the purpose of which is to nominate candidates for office. Nor shall the officers, members, or employes of said police force take any part whatever in any partisan convention held for the purpose of a political party. Nor shall any member of said board of police commissioners, directly or indirectly, attempt to influence or control the action of any member of said police force, or any employe thereof, in any primary or general election. Nor shall any member of said police force be a member of any political club, or take part in the organization of such club. No member of such police force shall be allowed to interfere in politics on the day of election, or at any other time, while employed on said police force; provided, that no member of the police force shall be excluded from becoming a candidate for the office of chief of police; nor shall be removed from office for political or partisan causes, reasons, or purposes. Any violation of the provisions of this section shall be deemed a misdemeanor, and, on conviction, punished accordingly.

Meetings of police commissioners.

SEC. 141. The police commissioners appointed under this act shall hold their meetings in the office of the chief of police, or in such other convenient place as the municipal council shall designate, or, in case of emergency, at such place as said police commissioners shall elect; and the clerk of the chief of police shall act as clerk of said board of commissioners.

Uniforms and badges.

SEC. 142. The chief of police, captains, and every officer of the permanent force, shall provide themselves with a uniform and badge of office, to be prescribed by regulations of the board of police commissioners, which shall be worn by them upon all occasions, with such exceptions as may be permitted by the chief of police in the performance of detective duty.

Substitute officers.

SEC. 143. Said board of police commissioners shall have power to appoint substitutes, not to exceed three per cent. of said police force, to serve under

such regulations, and subject to such restrictions as may be prescribed by said board, and without pay from such city and county.

Special officers.

SEC. 144. It shall be lawful for the police commissioners to appoint a special officer, upon the petition of any persons, firms, or corporations, specifying the boundary or locality at or within which he is to act as such special officer, which boundary or locality shall be specified in his warrant of appointment, to do a special service, to be paid by such persons, firms, or corporations so petitioning; provided, that no special officer shall be appointed in any part of such city and county known as the Chinese quarter. Any special officer asking for, soliciting, demanding, collecting, or receiving, or causing others to do so for his benefit, any money or other valuable thing, upon pretense of guarding or protection of the persons or property of the persons from whom the same shall be asked, demanded, solicited, collected, or received, except the persons, firms, or corporations so petitioning for his said appointment, or residing within the boundary or locality, or having interests in such locality or boundary, for which such special officer is appointed and named in said warrant, shall be guilty of a misdemeanor, and, on conviction, punished accordingly, and shall be dismissed from the service.

Police contingent fund.

SEC. 145. The police commissioners of such city and county, or a majority of them, are authorized to allow, out of the police contingent fund, any and all orders signed by the chief of police of such city and county; provided, that the aggregate of said orders shall not exceed the sum of seven thousand two hundred dollars per annum, which sum shall be set apart annually to such fund from the general fund in the treasury of such city and county by the municipal council. The auditor of such city and county shall audit, and the treasurer thereof shall pay, out of said police contingent fund, any and all orders so allowed as aforesaid by the said police commissioners, not exceeding in the aggregate said sum of seven thousand two hundred dollars per annum.

FIRE DEPARTMENT.

15,070. *Board of fire commissioners.*

SEC. 146. There shall be a board of fire commissioners of such city and county, consisting of five persons, possessing the same qualifications of eligibility as are herein prescribed for the members of the board of aldermen, who shall be appointed by the board of aldermen, and shall hold office for the term of four years from and after the time of their appointment; provided, that the fire commissioners now acting as such in such city and county, shall continue to hold their respective offices until the expiration of the term for which they may have been respectively elected or appointed.

Powers of fire commissioners.

SEC. 147. The said board of fire commissioners shall supervise and control said fire department, its officers, members, and employes, subject to the laws governing the same, and shall see that the officers, members, and employes thereof faithfully discharge their duties, and that the laws, orders, and regulations relating thereto are carried into operation and effect. They shall not, nor shall either of them, or the chief engineer, or assistant chief engineer, or assistant engineers of said fire department, be interested in any contracts pertaining in any manner to said fire department, or the sale, furnishing of ap-

paratus or supplies for the same; and all contracts in violation of this section are declared void, and any of said persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished accordingly. The municipal council of such city and county shall have power to contract and provide for all cisterns, hydrants, apparatus, horses, supplies, engine, hose, and hook and ladder houses, and all alterations and repairs required; and said board of fire commissioners shall supervise all contracts awarded and work done for the said fire department, and shall see that all contracts awarded and work done are faithfully performed. The said board of fire commissioners shall have power to prescribe the duties of the officers, members, and employes of said fire department, and to adopt rules and regulations for the management and discipline thereof; and a majority of them shall certify to the correctness of all claims and demands, before the same shall be paid. And the municipal council is authorized and required to provide and furnish for the use of said board of fire commissioners a suitable room or rooms in some of the buildings of such city and county, to serve as an office for their meetings and the transaction of business relating to said fire department, in which their clerk, janitor, and messenger shall be in attendance daily during office hours. The chief engineer, assistant chief engineer, and assistant engineer of said department shall also make it their headquarters daily during office hours, when not otherwise engaged in official duties. And the said municipal council shall furnish the chief engineer, and also the assistant chief engineer hereinafter mentioned, with a horse and buggy, and shall provide for keeping the same.

Officers of fire department.

SEC. 148. The officers of the fire department of such city and county shall be:

1. Five fire commissioners, to be appointed as aforesaid.
2. One chief engineer.
3. One assistant chief engineer.
4. Four assistant engineers.
5. One superintendent of steam fire engines.

Members and employes.

SEC. 149. The members and employes of said fire department shall be:

1. One assistant superintendent of steam fire engines.
2. One clerk and storekeeper for the corporation yard.
3. One corporation yard drayman.
4. One night watchman of the corporation yard.
5. Two hydrantmen.
6. One veterinary surgeon.
7. One foreman of each company.
8. One engineer for each steam fire engine.
9. One substitute engineer and machinist.
10. One driver for each company.
11. One fireman for each steam engine company.
12. One carpenter.
13. One tillerman for each hook and ladder company.
14. One steward for each hose company.
15. One janitor and messenger.
16. One clerk.

Attention to duties.

SEC. 150. All paid members of said fire department, except the veterinary surgeon, foreman, assistant foreman, company clerks, hosemen, hook and ladder men, and stewards of volunteer companies, shall give their undivided attention to their respective duties; but the foreman, assistant foreman, company clerks, hoseman, and hook and ladder men, and stewards of volunteer companies, shall perform such duties as may be prescribed from time to time by said board of fire commissioners and ordered to be executed by the chief engineer.

Appointments.

SEC. 151. The chief engineer, the assistant chief engineer, the superintendent of steam fire engines, the assistant engineers, the clerk, and all members and employes of the fire department, shall be appointed by the fire commissioners, and retain their positions during good behavior; and it shall be the duty of such fire commissioners, on their first organization under this act, to appoint as members thereof the officers and members of any fire department which shall be in service in any such city and county at the time this act goes into effect. No officer, member, or employe of said fire department shall be removed for political reasons.

Companies.

SEC. 152. The fire department of such city and county shall consist of such engine, hook and ladder, and hose companies as shall be recommended by the board of fire commissioners, and determined by the municipal council necessary to afford protection against fire; provided, that as an auxiliary thereto, patent fire extinguishers may also be purchased and employed, if, in the judgment of said board, deemed advisable; provided, that no hand engine shall hereafter be purchased for the use of said department, but such as shall be in the possession of such city and county prior to its organization under this act may be used in such localities and under such regulations as the board of fire commissioners may prescribe. The companies of said department shall be organized as follows: Each steam fire engine company shall consist of (1) one foreman, one (1) engineer, one (1) driver, one (1) fireman, and eight (8) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hook and ladder company shall consist of one (1) foreman, one (1) driver, one (1) tillerman, and twelve (12) hook and ladder men; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hose company shall consist of one (1) foreman, one (1) driver, one (1) steward, and six (6) hosemen, one (1) of whom shall act as assistant foreman, and one (1) as clerk.

Duties of chief and assistant engineers.

SEC. 153. The chief engineer shall be the executive officer of said fire department, and it shall be his duty (and that of the assistant chief engineer and assistant engineers) to see that the laws, orders, rules, and regulations concerning the same are carried into effect, and also to attend to such duties as fire wardens as may be required, and to see that all laws, orders, and regulations established in such city and county to secure protection against fire are enforced. It shall also be the duty of the chief engineer to enforce the rules and regulations made from time to time to secure discipline in said fire department, and he shall have power to suspend any subordinate officer, member, or employe for a violation of the same, and shall forthwith report in writing, with his reasons therefor, to the board of fire commissioners for their action. He shall

diligently observe the condition of the apparatus and workings of said department, and he shall report, in writing, at least once in each week, to said board of fire commissioners, upon the same, and make such recommendations and suggestions respecting it, and for securing its greater efficiency, as he may deem proper; and in the absence or inability of the chief engineer to act, the assistant chief engineer shall assume the duties of said office of chief engineer.

Clerk of board.

SEC. 154. The person elected as clerk by said board of fire commissioners shall, before entering upon the discharge of his duties, execute a bond with two or more sureties, in the penal sum of twelve thousand (12,000) dollars, for the faithful discharge of his duties, which bond shall be approved by said board of fire commissioners, and the mayor of such city and county, and when so approved, shall be filed in the office of the auditor. The amount of said bond may be increased from time to time, when directed by the board of fire commissioners, should it deem it necessary for the public good; said clerk shall attend daily, during office hours, at the office of the board of fire commissioners (which shall be the office of the chief engineer, assistant chief engineer, and assistant engineers); shall perform the duties of clerk to said board and chief engineer, and shall perform such other duties from time to time as said board may prescribe. The clerk and storekeeper for the corporation yard shall, before entering upon his duties, furnish a bond in the sum of ten thousand (10,000) dollars, to be approved the same manner as the bond provided for in this section, to be given by the clerk of said board of fire commissioners, and filed with the auditor.

Sale of fire department property.

SEC. 155. The mayor of such city and county, upon the recommendation of the board of fire commissioners, with the approval of the municipal council, is authorized to sell at private or public sale from time to time any or all of the engines, hose carriages, engine houses, lots on which such houses stand, or parts of lots (or to exchange any of said lots, when in their judgment demanded by the public good), or other property which shall not be required for the use of the department, and to execute, acknowledge, and deliver good and sufficient deeds or bills of sale for the same, paying the proceeds of such sales into the county treasury, to the credit of the proper fund.

Payment of salaries and expenses.

SEC. 156. The municipal council of such city and county is hereby authorized and required to appropriate, allow, and order paid annually out of the general fund of such city and county the salaries hereinafter specified and allowed, and salaries at similar rates to the several officers and men of any additional companies created as aforesaid, and the municipal council is required to appropriate, allow, and order paid, out of the general fund, a sum not to exceed eighty thousand (80,000) dollars annually for running expenses, horse feed, repairs to apparatus, and for the construction and erection of cisterns and hydrants, and for the erection and repair of buildings, and other expenses of the fire department. To appropriate a sum not to exceed thirty thousand (30,000) dollars for the purchase of horses and apparatus for the fire department.

Payment to disabled firemen.

SEC. 157. Whenever a member of the paid fire department of such city and county shall become disabled by reason of injuries received at any fire, so as

to be unable to perform his duties, the municipal council, upon the recommendation of the board of fire commissioners, is hereby authorized and empowered to allow said disabled man a sum not exceeding fifty (50) dollars per month, for not to exceed three (3) months, payable out of the general fund of such city and county, in the same manner and form as other payments are made out of said fund.

Appointment of assistant engineers and clerks.

SEC. 158. The chief engineer shall have power to appoint one member of each company to act as assistant foreman; also, one member to act as clerk; said clerk to receive five (5) dollars per month extra pay.

Organization of board of fire commissioners.

SEC. 159. The fire commissioners shall organize said board immediately upon their appointment, and on the first Monday after the first day of January of each and every year thereafter, by selecting one of their number as president, and they shall meet at least once in each month publicly at their office, to transact the business of said fire department; and, in addition to the stated meetings, they shall meet twice in each month for the purpose of investigating charges against officers, members, and employes of said department for violating any of the rules and regulations thereof; and shall hold such intermediate sessions as they shall deem necessary to the proper administration of the fire department. No person shall be eligible to any position in said department who is not a citizen of the United States, or a resident of such city and county at least two years, nor under twenty-one (21) years of age at the time of his appointment.

Violations of rules and regulations—Subpenas and witnesses.

SEC. 160. In all investigations for violation of the rules and regulations of the fire department, the president of the board of fire commissioners shall have power to issue subpenas, and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpenas issued by him shall be in such form as he may prescribe, and shall be served by any police officer, or by any peace officer, of such city and county. Any person who refuses to attend or testify in obedience to such subpenas, shall be deemed guilty of contempt, and be punished by him as in cases of contempt in justices' court in civil cases.

Dismissals—Charges.

SEC. 161. No officer, member, or employe of the fire department shall be dismissed, unless for cause, nor until after a trial. The accused shall be furnished with a written copy of the charges against him at least five (5) days previous to the day of trial, and he shall have an opportunity to examine witnesses in his behalf, and all witnesses shall be examined under oath, and all trials shall be public.

Workshop for repairs.

SEC. 162. The municipal council of such city and county is hereby authorized and empowered to establish and maintain at the corporation yard a workshop for making repairs and improvements upon the apparatus of the fire department; and such workshop, and such repairs and improvements, to be under the supervision of the board of fire commissioners, and the municipal council shall allow and order paid out of the proper fund all the expenses of such workshops, repairs, and improvements.

Fire department to be non-partisan.

SEC. 163. No member of said board of fire commissioners shall, during his term of office, be a member of any party convention, the purpose of which is to nominate candidates for political office, nor shall the officers, members, or employes of said fire department take any part whatever in any partisan convention, held for the purposes of a political party; nor shall any member of the said boards of fire commissioners directly or indirectly attempt to control or influence the action of any member of said fire department, or any employe thereof, in any primary or general election. No member of the fire department shall levy, collect, or pay any amount of money as an assessment or contribution for political purposes. Any violation of the foregoing provisions of this section shall be deemed a misdemeanor.

Salaries of officers.

SEC. 164. The salaries of the officers of the fire department shall be paid in monthly installments, and as follows:

First—The salary of the fire commissioners shall be one thousand two hundred dollars per annum.

Second—The salary of the chief engineer shall be three thousand dollars per annum.

Third—The salary of the assistant chief engineer shall be two thousand four hundred dollars per annum.

Fourth—The salaries of the assistant engineers shall each be one thousand eight hundred dollars per annum.

Fifth—The salary of the superintendent of steam fire engines shall be one thousand eight hundred dollars per annum.

Salaries of members and employes.

SEC. 165. The salaries of the members and employes of the fire department shall be paid in monthly installments, and as follows:

1. The salary of assistant superintendent of steam fire engines shall be one thousand six hundred and eighty dollars per annum.

2. The salary of the clerk and storekeeper for the corporation yard shall be one thousand five hundred dollars per annum.

3. The salary of the corporation yard drayman shall be one thousand and eighty dollars per annum.

4. The salary of the night watchman for the corporation yard shall be nine hundred dollars per annum.

5. The salary of the two hydrantmen shall be one thousand and eighty dollars per annum each.

6. The salary of the veterinary surgeon shall be twelve hundred dollars per annum.

7. The salary of the foreman of each company shall be five hundred and forty dollars per annum.

8. The salary of the engineer for each steam fire engine company shall be one thousand six hundred and eighty dollars per annum.

9. The salary of the substitute engineer and machinist shall be one thousand six hundred and eighty dollars per annum.

10. The salary of the driver for each company shall be one thousand and eighty dollars per annum.

11. The salary of the fireman for each steam fire company shall be one thousand and eighty dollars per annum.

12. The salary of the carpenter for said department shall be one thousand two hundred dollars per annum.

13. The salary of the tillerman for each hook and ladder company shall be one thousand and eighty dollars per annum.

14. The salary of the steward for each hose company shall be nine hundred and sixty dollars per annum.

15. The salary of each hoseman and each hook and ladderman shall be four hundred and eighty dollars per annum.

16. The salary of the janitor and messenger shall be nine hundred dollars per annum.

17. The salary of the clerk of the board of fire commissioners shall be one thousand eight hundred dollars per annum.

Fire alarm and police telegraph officers.

SEC. 166. There shall be maintained and provided for by the municipal council in such city and county a fire alarm and police telegraph for municipal use, and the superintendent thereof shall be appointed by the board of fire commissioners, to serve during its pleasure, except that he shall not be removed for political causes, reasons, or purposes. Said superintendent is authorized to appoint the following officers and employes: One chief operator, three operators, one repairer, two assistant repairers, and one batteryman. It shall be the duty of such board, on their first organization under this act, to appoint as officers and employes thereof, the officers and employes of any fire alarm and police telegraph which shall be in service in such city and county at the time this act goes into effect.

Salaries of officers.

SEC. 167. The salaries of the officers of said fire alarm and police telegraph shall be paid in monthly installments, and as follows:

1. The salary of the superintendent shall be two thousand four hundred dollars per annum.

2. The salary of the chief operator shall be one thousand eight hundred dollars per annum.

3. The salary of each of the three operators herein provided for shall be one thousand five hundred dollars per annum.

4. The salary of the repairer shall be one thousand two hundred dollars per annum.

5. The salary of each of the two assistant repairers herein provided for shall be one thousand and eighty dollars per annum.

6. The salary of the batteryman shall be nine hundred dollars per annum.

Maintenance and extension of telegraph.

SEC. 168. The municipal council shall appropriate such sum as may be necessary, not exceeding fifteen thousand dollars per annum, for the maintenance, repair, and extension of said telegraph; and to defray the cost of instruments and machinery therefor, and for such horses and vehicles as may be necessary for the use of said superintendent.

HEALTH DEPARTMENT.

15,071. *Board of health.*

SEC. 169. There shall be a board of health for such city and county, which board shall consist of the mayor of the city and county and five physicians in good standing, residing in such city and county, who shall be appointed by

the governor, and who shall hold office for the term of four years, and until their successors are appointed and qualified; and in case any vacancy shall at any time occur in said board by removal or resignation or otherwise, the same shall be filled by appointment by the governor; provided, that nothing herein contained shall affect the terms of the members of the board of health of any such city and county appointed prior to the passage of this act.

President—Meetings.

Sec. 170. The mayor of such city and county shall be ex officio president of the board of health, and in his absence, at any meeting, the board may elect a chairman, who shall, for the time, be clothed with all the power of the president. Said board shall hold a regular meeting at least once in each month, and at other times when called thereto by the president, or by a majority of the board.

Jurisdiction.

Sec. 171. Said board of health is hereby invested with general jurisdiction over all matters appertaining to the sanitary condition of such city and county, and over all quarantine regulations and the enforcement thereof, and hospitals and alms-houses, and all municipal institutions created and maintained for charitable purposes and not herein enumerated, within the corporate limits of such city and county, and adopt such orders and regulations as may be necessary to the complete exercise of the powers hereinbefore enumerated, and may appoint or discharge such attendants and employes as may seem best to promote the public welfare.

No salary.

Sec. 172. The members of said board of health shall receive no salary.

Officers and employes—Salaries.

Sec. 173. Said board of health shall have power to appoint the following officers and employes, who shall receive the salaries hereinafter provided, payable in monthly installments at the end of each month, viz.:

1. One health officer, who shall be the executive officer of said board, at a salary of twenty-four hundred dollars per annum.

2. One quarantine officer, at a salary of eighteen hundred dollars per annum.

3. One secretary, at a salary of twenty-four hundred dollars per annum.

4. Six health inspectors and one market inspector, at a salary of twelve hundred dollars per annum each; one messenger, at nine hundred dollars per annum.

5. One superintendent of the city and county hospital, who shall be a physician and graduate of some medical college in good standing, at a salary of twenty-four hundred dollars per annum.

6. One resident hospital physician, at a salary of fifteen hundred dollars per annum.

7. One hospital steward, at a salary of twelve hundred dollars per annum.

8. One hospital matron, at a salary of nine hundred dollars per annum.

9. One hospital apothecary, at a salary of twelve hundred dollars per annum.

10. One hospital engineer, at a salary of nine hundred dollars per annum.

11. Two physicians and two surgeons to be selected from the faculty of the Medical Department of the University of California, and two physicians and two surgeons to be selected from the faculty of the Pacific Medical College, at such salary as the board of health may designate, not to exceed twelve hundred

dollars each per annum, as visiting physicians and surgeons to the city and county hospital.

12. One alms-house superintendent, at a salary of two thousand four hundred dollars per annum.

13. One resident alms-house physician, at a salary of fifteen hundred dollars per annum.

14. One alms-house matron, at a salary of seven hundred and twenty dollars per annum.

15. One city physician, at a salary not to exceed eighteen hundred dollars per annum.

16. One assistant city physician for the industrial school and house of correction, at a salary of twelve hundred dollars per annum.

17. One first cook, at a salary of sixty dollars per month.

18. One second cook, at a salary of thirty-five dollars per month.

19. One third cook, at a salary of thirty dollars per month.

20. One baker, at a salary of seventy-five dollars per month.

21. One clerk, at a salary of forty dollars per month.

22. One interpreter, at a salary of forty dollars per month.

23. One ambulance driver, at a salary of forty dollars per month.

24. Sixteen nurses, at a salary of thirty-five dollars each.

Appointments and removals.

SEC. 174. The appointing power of all and every of the aforesaid officers and employes is vested solely in said board of health, and said board shall have power to prescribe the duties of every and all of said officers and employes, and to remove the same at pleasure; and said board of health is hereby empowered to employ such additional employes as may be necessary to carry out the purposes of this act, at such compensations as said board of health may fix.

Payment of salaries and expenses of health department.

SEC. 175. The salaries of the officers and employes of said board of health, and all other expenses legally incurred by said board under the provisions of this act, shall be payable out of the general fund of the treasury of such city and county; and the auditor of such city and county is hereby directed to audit all such demands, and the treasurer of such city and county is hereby directed to pay the same out of said general fund. The said board of health shall annually, upon the third Monday of April of each year, transmit in writing to the municipal council of such city and county an estimate of the amount money necessary to defray all of the expenditures of said board of health for the next fiscal year; and the board of health shall not expend in any one fiscal year an amount exceeding the amount of such estimate so transmitted by such board of health for such fiscal year allowed upon such estimate by the municipal council, except in case of an epidemic of any contagious disease, when such board of health is hereby authorized to increase such expense as may be deemed necessary for the public safety, and all such expenses shall be payable out of the general fund of such city and county at the same time and in the same manner provided for other expenses of said board. Nothing in this act shall be construed to authorize said board of health to contract for or purchase supplies for any of the charitable institutions placed under its control by this act. All contracts for any of the work authorized by this act to be caused to be performed by said board of health, shall be awarded by said board to the lowest responsible bidder, after notice, for not less than five days, in two daily newspapers

published in such city and county, under such regulations and requirements as said board of health may adopt.

Perquisites prohibited—Fees.

SEC. 176. It shall not be lawful for any superintendent or other principal officer in charge of any alms-house in such city and county to have or receive any perquisites, or to derive any income or revenue therefrom, either directly or indirectly, other than the salary allowed to him by the board of health; nor shall it be allowable for any subordinate officer or employe to have or receive any perquisite, either directly or indirectly; and it shall be the duty of the board of health to remove any such superintendent, or other principal officer, or any subordinate officer, or employe, who violates any provision of this section. All fees authorized by any of the provisions of this act, to be collected by any officer or employe of the board of health, shall be immediately paid by such officer or employe to the secretary of said board of health, who shall, upon the first Monday of each month, pay the same into the treasury of such city and county, to be credited to the proper fund.

Quarantine of vessels in case of contagious disease.

SEC. 177. Shipmasters bringing vessels into the harbor of any such city and county, and all masters, owners, or consignees having vessels in such harbor, which have on board any cases of Asiatic cholera, small-pox, yellow, typhus, ship fever, or any other contagious disease, must report the same, in writing, to the quarantine officer before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they or either of them become aware of the existence of either of these diseases on board of their vessels.

Permits to land.

SEC. 178. No captain or other officer in command of any vessel sailing under a register, arriving at the port of any such city and county, nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any freight, passengers, or other persons from such vessels, until he has reported to the quarantine officer, presented his bill of health, and received a permit from that officer to land freight, passengers, and other persons.

Duties of pilots.

SEC. 179. Every pilot who conducts into the port of any such city and county any vessel subject to quarantine, or examination by the quarantine officer, must:

I. Bring the vessel no nearer such city and county than is allowed by law.

II. Prevent any person from leaving such vessel, and any communication being made with the vessel under his charge, until the quarantine officer has boarded her and given the necessary orders and directions.

III. Be vigilant in preventing any violation of the quarantine laws, and report, without delay, all such violations that come to his knowledge, to the quarantine officer.

IV. Present the master of the vessel with a printed copy of the quarantine laws, unless he has one.

V. If the vessel is subject to quarantine, by reason of infection, place at the masthead a small yellow flag.

Violation of quarantine regulations.

SEC. 180. Every master of a vessel subject to quarantine, or visitation by the

quarantine officer, arriving in the port of any such city and county, who refuses to neglect either:

I. To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,

II. To submit his vessel, cargo, and passengers to the quarantine officers, their inspection, examination, and direction, and furnish all necessary information to enable that officer to determine to what quarantine or other regulations they might respectively be subject; or,

III. To report all cases of disease, and of death, occurring on his vessel, and to comply with all the sanitary regulations of such port or harbor.

Is liable in the sum of five hundred dollars for every such neglect or refusal.

Quarantine of vessels from infected ports.

SEC. 181. All vessels arriving off the port of any such city and county from ports which have been legally declared infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have unusually foul or offensive holds, are subject to quarantine, and must be by the master, owner, pilot, or consignee, reported to the quarantine officer without delay. No such vessel must pass within the bounds prohibited them by the board of health, until the quarantine officer has boarded her and given the order required by law.

Duty of quarantine officers to board vessels.

SEC. 182. The quarantine officers must board every vessel subject to quarantine or visitation by him, immediately on her arrival, make such examinations and inspection of vessel, books, papers, or cargo, or of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine.

Penalty for landing passengers without permit.

SEC. 183. No captain, or other officer, in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden having passengers on board, nor any consignee, owner, agent, or other persons having charge of such vessel or vessels, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel until he has presented his bill of health to the quarantine officer and received a permit from that officer to land such passengers, except in such cases as the quarantine officer deems it safe to give the permit before seeing the bill of health.

Fees for permits.

SEC. 184. The following fees shall be collected by the quarantine officer for giving a permit to land freight or passengers, or both: From any sailing vessel of less than five hundred tons burden, from any port out of this State, two dollars and fifty cents; five hundred and under one thousand tons burden, five dollars; each additional one thousand tons burden, or fraction thereof, an additional two dollars and fifty cents; for steam vessels, propelled in whole or in part by steam, of one thousand tons burden or less, five dollars, and two dollars and fifty cents additional for each additional one thousand tons burden or fraction thereof. But vessels not propelled in whole or in part by steam, sailing to and from any port or ports of the Pacific States of the United States, or Terri-

tories, and whaling vessels entering the harbor of any such city and county, are excepted from the provisions of this section.

Compulsory vaccination on ships.

SEC. 185. The board of health may enforce compulsory vaccination on passengers or variola-infected ships, or coming from ports infected with the same.

Quarantine grounds.

SEC. 186. The board of health shall establish quarantine grounds at such points and places as in its judgment may best conduce to public safety; may provide suitable hospitals whenever the same are required for the public safety, and furnish and supply the same with nurses and attaches, and remove thereto all persons afflicted with cholera, small-pox, yellow, tyhus, ship fever, or other contagious diseases; provided, said quarantine grounds and hospitals shall not be established within one mile of the main land on the north side of the Bay of San Francisco.

Record of births, deaths, and interments.

SEC. 187. The board of health must cause to be kept a record of all births, deaths, and interments occurring in such city and county coming under the provisions of this act. Such records, when filed, must be deposited in the office of the city and county recorder, and produced, when required, for public inspection.

Report of births and deaths.

SEC. 188. Physicians and midwives must, on or before the fourth day of each month, make a return to the health officer of all births, deaths, and the number of stillborn children occurring in their practice during the preceding month. In the absence of such attendants, the parents must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted by, and upon blanks furnished by, the board of health.

Interments—Certificates of death, etc.

SEC. 189. No person shall deposit in any cemetery, or inter in any such city and county, any human body, without first having obtained and filed with the health officer a certificate, signed by a physician, or midwife, or coroner, setting forth as near as possible the name, age, color, sex, place of birth, occupation, date, locality, and the cause of death of deceased, and obtain from such health officer a permit. The physicians, when death occurs in their practice, must give the certificate herein mentioned. It shall be the duty of the said board of health to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that time it shall cause the body to be buried or to be placed in a vault, or niche, constituted of brick, stone, or iron, and hermetically sealed. It shall also be the duty of said boards to require all persons having in charge the digging of graves, and the burial of the dead, to see that the body of no human being who has reached ten years of age shall be interred in a grave less than six feet deep, or if under the age of ten years, the grave to be not less than five feet deep. The board of health shall have entire charge of all cemeteries belonging to such city and county, and may employ a superintendent thereof, at a salary not to exceed seventy-five dollars per month, the same to be paid out of the general fund as the salaries of the other employes are paid.

Reports of superintendents of cemeteries.

SEC. 190. Superintendents of all cemeteries in any such city and county must

return to the health officer on each Monday the names of all persons interred, or deposited, within their respective cemeteries during the preceding week, and no superintendent of a cemetery, or any other person, can remove, or cause to be removed, or cause to be disinterred, any human body or remains that have been deposited in a cemetery without a permit therefor from the health officer, or by order of the coroner.

Disinterment prohibited without permit.

SEC. 191. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place within the limits of such city and county, the body or remains of any deceased person, unless a permit for so doing shall have been first obtained from the health officer of such city and county. Nor shall any body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be transported in or through the streets or highways of any such city and county, unless the person or persons removing or transporting such body or remains shall first obtain from the health officer a permit, in writing, therefor, as aforesaid. But when an applicant for a permit to disinter a body shall desire to remove said body beyond the limits of such city and county, and shall so state on making application, the permit, if the same be issued, shall include the right to disinter and remove, and said permit shall accompany the body or remains.

Permits to disinter.

SEC. 192. Permits to disinter or exhume the bodies or remains of deceased person and to transport the same, or to exhume, or to transport, as in the last section provided, may be granted in the discretion of the health officer, and under such restrictions and conditions only as he, in his judgment, may affix, so as in the best possible manner to protect the public health. The health officer shall prepare a book of blank permits in proper form, and consecutively numbered, containing stubs on which, as well as in the permit, shall be entered a record of the transaction, giving the name, age, sex, nativity, date of death, destination of remains sought to be removed, and upon granting each permit shall be required to be paid to him the sum of ten dollars therefor, for the use and benefit of the general fund of such city and county.

Disinterment without permit—Misdemeanor.

SEC. 193. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed from a grave, vault, or other receptacle, or burial place, the remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

Transporting disinterred remains through streets—Misdemeanor.

SEC. 194. Any person or persons who shall transport, or cause to be transported, on or through the streets or highways of any such city and county of this State, the body or remains of a deceased person, which has been disinterred or exhumed without a permit therefor, in accordance with this act, shall be guilty of a misdemeanor, and be punished as provided in the preceding section.

Removal of remains from one cemetery to another.

SEC. 195. Nothing in this act contained shall be taken to apply to the removal

of the remains of the deceased person from one place of interment to another place of interment, or cemetery, within this State.

Transportation of remains without permit.

Sec. 196. No person, master, captain, or conductor, in charge of any boat, vessel, or railroad car, or public or private conveyance, shall receive for transportation, or shall transport the body of any person who has died within the limits of such city and county, without said body is accompanied by a permit for such transportation from the health officer, which permit shall accompany the body to its destination; and no person, master, captain, or conductor, as aforesaid, shall bring into or transport through any such city and county the dead body or remains of any person, unless it be accompanied with a certificate from some proper authority of the place whence it came, stating name, age, sex, and cause of death, which certificate shall be filed at the health office; provided, that in no case shall the body of any person who died of contagious disease be brought to such city and county within one year after the day of death.

Nuisances.

Sec. 197. Whenever a nuisance shall exist on the property of any non-resident, or any property, the owner or owners of which can not be found by either health inspector, after diligent search, or on the property of any owner or owners upon whom due notice may have been served, and who shall for three days refuse or neglect to abate the same, or any property belonging to such city and county, it shall be the duty of the board of health to cause the said nuisance to be at once removed or abated, and to draw upon the general fund in such sums as may be required for such removal or abatement, not to exceed two hundred dollars; provided, that whenever a larger expenditure is found necessary to be made in the removal or suppression of any nuisance, the municipal council of such city and county shall, upon the written application of the board of health, by ordinance, appropriate, allow, and order paid out of the general fund such sum or sums as may be necessary for that purpose; provided, further, that in all cases where such expenditure will exceed five hundred dollars, no appropriation shall be made for that purpose unless the city and county attorney shall first give his opinion, in writing, that such expenditure would be a legal charge against the property affected thereby. And the auditor shall audit and the treasurer shall pay all appropriations of money made in pursuance of this section, in the same manner as is now provided by law for auditing and paying demands upon the treasury.

Books of health and quarantine officers.

Sec. 198. The health officer and the quarantine officer must each keep a book open to public inspection, in which must be entered daily all fees collected by them, and they must pay all fees collected to such city and county treasurer, daily, to the credit of the general fund.

Bonds of health and quarantine officer.

Sec. 199. The health officer must execute an official bond, with two sureties, to be approved by the board of health, in the sum of ten thousand dollars; and the quarantine officer must execute a like official bond, with two sureties, in the sum of ten thousand dollars; which bonds shall be filed with the auditor of such city and county.

Administration of oaths.

Sec. 200. Any member of the board of health, the health officer, and the

quarantine officer, and the secretary of the board of health, is hereby authorized to administer oaths on business connected with the health department.

Actions by health or quarantine officer.

SEC. 201. Whenever any cause of action arises under any of the provisions of this act relating to the health department, suit may be maintained thereon in the name of the health or quarantine officer, as the case may be, in any superior court or justice's court of this State.

Reports by physicians of contagious diseases.

SEC. 202. Every physician in any such city and county shall report to the health officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, diphtheria, scarlatina, or other contagious diseases, immediately thereafter, and report to the same officer every case of death from such disease.

Reports of householders.

SEC. 203. Every householder, in any such city and county, shall forthwith report, in writing, to the health officer, the name of every person boarding, or an inmate of his or her house, whom he or she shall have reason to believe sick of cholera or small-pox, and any deaths occurring at his or her house from such disease.

PUBLIC PARKS.

15,072. Park commissioners.

SEC. 204. There shall be a board of park commissioners of such city and county consisting of three persons, to be appointed by the governor of this State, who shall hold their office for four years, and who shall receive no compensation for their services. In case of a vacancy, the same shall be filled by the remaining members of the board for the residue of the term then vacant; and all vacancies occasioned by expiration of terms of office, or neglect, or incapacity, shall be filled by the governor aforesaid. Each of said commissioners shall be a freeholder and resident of such city and county. Said board shall have full and exclusive control and management of all the parks of such city and county which at the time of the organization of such city and county under this act were treated and improved as public parks, with the avenues and great highways connected therewith. Two of said commissioners shall constitute a quorum to do business, but no money shall be expended, or contract entered into authorizing the expenditure of money without the approval of the mayor and a majority of said board of park commissioners; provided, that the members of the present board of park commissioners in any such city and county shall be the park commissioners under this act, until their term of office expires.

Powers of park commissioners.

SEC. 205. Said board shall have power to govern, manage, and direct said parks and avenues leading thereto as have heretofore been operated or managed in connection therewith; to lay out, regulate, and improve such parks and avenues; to pass ordinances for the regulation and government of the same; to appoint one general superintendent, who shall perform the duties of overseer and managing gardener, who shall receive a salary of two thousand four hundred dollars per annum. The city and county surveyor shall be ex officio engineer of the works, and shall perform such engineering work as the commissioners may require of him. Prisoners over the age of twenty-one years sentenced to hard labor in any of the jails, prisons, houses of correction, work-

houses, or other penal establishments of such city and county, may be put to work upon the parks. The commissioners may employ such other laborers as shall be necessary, within the amount allowed by law to be expended on said parks, at wages not to exceed the current wages paid in such city and county for labor. They shall in no year incur any debt or deficit, nor expend any money beyond the amount realized by the tax herein provided for. All persons violating any of the ordinances of the commissioners regulating the parks shall be deemed guilty of misdemeanor and punished accordingly.

Tax for park purposes.

SEC. 206. The municipal council shall have the power to levy and collect, in the mode prescribed by law for the levy and collection of taxes, each year, upon all property in such city and county, the sum of one and one half cents upon each one hundred dollars valuation of taxable property therein for the purpose of preserving and improving the parks and avenues under control and management of said commissioners. Said money shall be paid into the treasury, and paid out for said purpose, all claims to be first allowed by said commissioners and audited by the auditor. The jurisdiction of the park commissioners shall not extend to unimproved parks, nor squares, and places not hitherto treated as parks, unless extended thereto by an ordinance of the municipal council. The commissioners may lease, for terms not to exceed three years, any portion of said grounds not immediately required for improvement, the proceeds to go to the improvement of the parks and avenues.

Reports of park commissioners.

SEC. 207. The park commissioners shall make semi-annual reports to the mayor and municipal council of all their proceedings, and a detailed statement of all the receipts and expenditures.

EQUALIZATION.

15,073. Board of equalization.

SEC. 208. The municipal council shall constitute a board of equalization for such city and county, and as such shall have the powers conferred by the general laws regulating the assessment and collection of taxes, when not inconsistent with the provisions of this act.

EDUCATION.

15,074. Board of education.

SEC. 209. There shall be a board of education for such city and county, which shall be composed of twelve school directors, elected as provided in this act, who shall hold office for two years, and until their successors are elected and qualified. They shall have the same qualifications as to eligibility requisite for members of the board of aldermen. Said board shall organize immediately after the election and qualification of its members, by electing a president from among the directors elected, and annually thereafter, and shall hold meetings monthly, and at such times as the board shall determine. A majority of all the members elected shall constitute a quorum to transact business, but a smaller number may adjourn from time to time. The board may determine the rules of its proceedings. Its sessions shall be public, and its record shall be open to public inspection.

Superintendent of schools.

SEC. 210. There shall be elected by the qualified voters of such city and county, at the second general State election after the passage of this act, and

every four years thereafter, a superintendent of schools, who shall take office on the first Monday after the first day of January next following his election, and hold office for the term of four years, and until his successor is elected and qualified. He shall perform such duties as is prescribed by law.

Powers of board of education.

SEC. 211. The board of education shall have power:

First—To establish school districts, and to fix and alter the boundaries thereof.

Second—To maintain public schools as organized at the time of the organization of such city and county under this act, and to consolidate and discontinue the same as the public good may require.

Third—To establish high, normal, and experimental schools for the education of teachers.

Fourth—To employ and pay, and to dismiss teachers, janitors, school census marshals, and such mechanics and laborers, and such other persons as may be necessary to carry into effect the powers and duties of the board, and, unless otherwise provided by law, to fix, alter, and allow paid their salaries and compensations, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

Fifth—Also to make, and establish, and enforce all necessary and proper rules and regulations for the government and efficiency of the schools, the teachers and pupils, and for the carrying into effect of the school system; and to establish, and regulate, and grade the schools, the course of studies, and mode of instruction therein; to investigate all charges of misconduct on the part of teachers and other employes of the board; to administer oaths, and to take testimony; to summon and enforce the attendance of and examine witnesses for such purpose, before the board, or a member or committee thereof. Any person summoned and refusing to attend and testify, shall be deemed guilty of a misdemeanor; and any person testifying falsely shall be guilty of perjury, and, on conviction, punished accordingly.

Sixth—To provide for the school department of such city and county fuel, lights, blanks, blank books, books, printing, and stationery, and such other articles, materials, or supplies as may be necessary and appropriate for use in the schools, or in the office of the superintendent.

Seventh—To build, alter, repair, rent, and provide school-houses, and furnish them with proper school furniture, apparatus, and school appliances, and to insure any and all school property, and to use and control such buildings as may be necessary for the uses of the board and its committees.

Eighth—To receive, purchase, lease, and hold in fee, in trust for such city and county, any and all real estate and personal property that may have been or which hereafter may be acquired for the use and benefit of the schools of such city and county.

Ninth—To grade, fence, and improve school lots, and in front thereof.

Tenth—To sue for any and all lots, lands, and property belonging to or claimed by the school department of such city and county, and to prosecute and defend all actions at law, or in equity, necessary to recover the full enjoyment and possession of said lots, lands, and property, and to require the services of the city and county attorney in all such suits and proceedings.

Eleventh—To establish regulations for the just and equal disbursement of all moneys belonging to the school department, or to the public school fund,

and to make rules and regulations to secure economy and accountability in the expenditure of school money.

Twelfth—To discharge all legal incumbrances existing upon any school property; to dispose of and sell such personal property used in the schools as shall no longer be required, and all moneys realized by such sales shall be paid into the city treasury to the credit of the public school fund.

Thirteenth—To lease, for the benefit of the public school fund, for a term not exceeding five years, any unoccupied property of the school department not required for school purposes; to prohibit any child under six years of age from attending the schools; and generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

Administration of oaths.

SEC. 212. The president of the board of education, the superintendent, and the secretary, shall have power to administer oaths or affirmations concerning any demands upon the treasury, payable out of the public school fund, or other matters relating to their official duties or the school department.

Quarterly reports of school directors.

SEC. 213. It shall be the duty of each director to make quarterly reports to the board of the condition of the schools in their respective districts.

Supplies for public schools.

SEC. 214. It shall be the duty of the board of education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred is likely to exceed two hundred dollars, shall be done by contract, let to the lowest responsible bidder, after advertisement by the superintendent of schools; and the contract shall be entered into by the superintendent with the party to whom the contract is awarded; and the superintendent shall take care that such contract is carried out in strict accordance with the terms thereof.

Bids.

SEC. 215. All bids or proposals made under the preceding section shall be delivered to the superintendent of schools, and said board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder; provided, said board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any former contract with such city and county or said board, and cause a republication of the notice for proposals, as above specified. Any person may bid for any one article.

Officers and employes interested in contracts—Felony.

SEC. 216. Any school director, officer, or other person officially connected with the school department, or drawing a salary from the board of education, who shall, while in office, or so connected, or drawing salary, be interested, either directly or indirectly, in, or who shall gain any benefit or advantage from any contract, payments under which are to be made, in whole or in part, of the moneys derived from the school fund, or raised by taxation, or otherwise, for the support of the public schools, shall be deemed guilty of felony, and, on conviction, punished accordingly; and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed

cumulative to and with other penalties and disabilities as to such acts and offenses.

Annual report of board of education.

SEC. 217. The board shall make and transmit, between the fifteenth day of February in each year, to the State superintendent of public instruction, and to the mayor and municipal council of such city and council, a report, in writing, stating the whole number of public schools within the jurisdiction, the length of time they have been kept open, the number of pupils taught in each school, the whole amount of money drawn from the treasury of the department during the year, distinguishing the amounts drawn from the general fund of the State from all other, and from what sources, and the manner and purpose in which such money has been expended, with particulars, and such other information as may be required from them by the State superintendent, the municipal council, or the mayor.

Evening schools.

SEC. 218. The board shall provide evening schools to be held in the public school houses, for the benefit of those unable to attend the day schools. They shall make and enforce regulations requiring the teachers to keep records of the names, ages, and residences of all pupils, and the names and residences of their parents, and the aggregate attendance of each pupil during the year, and to verify and report the same on the thirty-first day of December to the board; and such other rules and regulations for the purpose of ascertaining the attendance and efficiency of the department and progress of education.

Superintendent ex officio member of board.

SEC. 219. The superintendent of schools shall be ex officio a member of the board of education, without the right to vote.

Clerk and secretary—Salary.

SEC. 220. Said superintendent shall appoint a clerk, subject to the approval of the board of education, who shall act as secretary of said board. His salary shall be two hundred dollars a month. Said clerk may be removed at the pleasure of the superintendent, and shall perform such duties as shall be required of him by the board or the superintendent.

Annual report and duties of superintendent.

SEC. 221. The superintendent shall report to the board annually, on or before the first day of August, and at such other time as the board may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of such city and county during the preceding fiscal year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such general rules for the regulation, government, and instruction of the schools, not inconsistent with the laws of the State, as may be established by the board. He shall attend the sessions of the board, and inform himself at each session of the condition of the schools, school houses, school funds, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in such city and county. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in such city and county, and the judicial decisions thereon, and give advice on subjects connected with the public schools gratuitously to officers, teachers, pupils, and their parents and guardians.

Visits and monthly reports by superintendent.

SEC. 222. The superintendent of schools shall visit and examine the schools,

and see that they are efficiently conducted, and that the laws and regulations of the board are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report monthly to the board. He shall also report to the State superintendent at such times as such officer shall require.

Vacancy in office of director.

SEC. 223. Any vacancy in the office of school director shall be filled for the remainder of the term by a person to be appointed by the board of aldermen.

Vacancy in office of superintendent.

SEC. 224. In case of a vacancy in the office of superintendent, the board of aldermen may appoint a person to fill the vacancy until the next regular election, when the office shall be filled by the people.

School fund.

SEC. 225. The school fund of such city and county shall consist of all moneys received from the State school fund; of all moneys arising from taxes which shall be levied annually by the municipal council of such city and county for school purposes; of all moneys arising from sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said school fund. Said fund shall be kept in the city and county treasury, separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this act. No fees or commissions shall be allowed or paid for assessing, collecting, keeping, or disbursing any school moneys; and if, at the end of any fiscal year, any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or withdrawn from said fund, except under the provisions of this act.

Application of school fund.

SEC. 226. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

First—For the payment of the salaries or wages of teachers, janitors, school census marshals, and other persons who may be employed by said board.

Second—For the erection, alteration, repair, rent, and furnishing of school houses.

Third—For the purpose of high, normal, and experimental schools.

Fourth—For the purchase money or rent of any real or personal property purchased or hired by the board.

Fifth—For the insurance of all school property.

Seventh—For the discharge of all legal incumbrances now or hereafter existing on any school property.

Eighth—For lighting school rooms, and the office and rooms of the superintendent and the board of education.

Ninth—For supplying the schools with fuel, water, apparatus, blanks, blank books, and necessary school appliances, together with books for indigent children.

Tenth—For supplying books, printing, and stationery, for the use of the superintendent and board of education, and for the incidental expenses of the board and department.

Eleventh—In grading, fencing, improving school lots.

Claims to be approved.

SEC. 227. All claims payable out of the school fund (excepting the coupons

for interest on school bonds), shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members elect of the board, upon a call of "yeas" and "nays" (which shall be recorded), they shall be signed by the president of the board, and the superintendent of the public schools, and be sent to the city and county auditor. Every demand shall have indorsed upon it a certificate of its approval by the board, showing the date thereof, and the law authorizing it by title, date, and section. All demands for teachers' salaries shall be payable monthly.

Expenditures of year not to exceed revenues.

SEC. 228. Demands on the school fund may be audited and approved in the usual manner, although there shall not, at the time, be money in the treasury for the payment of the same; provided, that no demand on said fund shall be paid out of or become a charge against the school fund of any subsequent fiscal year; and further provided, that the entire expenditures of the said school department, for all purposes, shall not, in any fiscal year, exceed the revenues thereof for the same year.

Indorsement by auditor of claims.

SEC. 229. The city and county auditor shall state, by indorsement upon any claim or demand audited on the school fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

Audited bills receivable for school taxes.

SEC. 230. Audited bills for the current fiscal year for wages or salaries of the teachers in the public schools shall be receivable for school taxes due upon real estate.

Demands to be audited.

SEC. 231. All lawful demands authorized by this act for school purposes shall be audited and approved in the usual manner, and the auditor and treasurer of such city and county are respectively authorized to audit and pay the same, when so ordered paid and approved by the said board; provided, that the said board shall not have the power to contract any debt or liability, in any form whatsoever, against such city and county, in contravention of this act; and provided further, that the allowance or approval by the board of demands not authorized by this act shall be no warrant or authority to the auditor or treasurer to audit or pay the same.

Report of estimate for school expenses—School tax.

SEC. 232. It shall be the duty of the board of education of such city and county, on or before the second Monday of September of each year, to report to the municipal council an estimate of the amount of money which will be required during the year for the purpose of meeting the current annual expenses of public instruction in such city and county, specifying the amount required for supplies furnished pupils, for purchasing and procuring sites, for leasing rooms or erecting buildings, and for furnishing, fitting up, altering, enlarging, and repairing buildings; for the support of schools organized since the last annual apportionment; for salary of teachers, janitors, clerks, and other employes, and other expenditures authorized by law; but the aggregate amount so reported shall not exceed the sum of thirty-five dollars for each pupil who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments. The number of pupils who shall be considered as having attended the schools during any one year, shall be ascertained by adding together the number of days' attendance of all the pupils

in the common schools during the year, and dividing the same by the number of school days in the year. Said municipal council is authorized and empowered to levy and cause to be collected, at the time and in the manner of levying State and other city and county taxes, the amount of tax, not to exceed thirty-five dollars per pupil, determined and reported by the board of education. The amount so levied and collected shall not include the amount received annually from poll taxes.

Sectarian doctrines prohibited.

SEC. 233. No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect are taught, inculcated, or practiced, or in which any book or books, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect, is used; nor shall any such books or teachings be permitted in the common schools.

Members not to be disbursing agents or accept gifts—Misdemeanors and felonies.

SEC. 234. No member of the board of education shall ever become the disbursing agent of such board, or handle or pay out any of its money under or upon any pretense whatever. Any violation of this provision shall be a misdemeanor, and shall subject the offender, besides the punishment, to removal from office. Any member or officer of the board of education who shall, while in office, accept any donation or gratuity in money, or of any valuable thing, either directly or indirectly, from any teacher or candidate, or applicant for a position as teacher, upon any pretense whatever, shall be deemed guilty of a misdemeanor in office, and shall be ousted by the board, or by any court of competent jurisdiction, from his seat, on proof thereof. Any member or officer of the board of education who shall accept any money, or valuable thing, or the promise thereof, with an agreement or understanding, express or implied, that any person shall, in consideration thereof, get the vote or influence of such member or officer for a situation as a teacher or employe of any kind in the school department, shall be deemed guilty of a felony, and, on conviction, shall be punished accordingly.

STREET DEPARTMENT.

15,075. *Public streets.*

SEC. 235. All the streets, lanes, alleys, places, or courts, as laid down on the official map of such city and county, and all other streets, lanes, alleys, places, or courts, now dedicated or open to public use, are hereby declared to be open public streets, lanes, alleys, places, or courts, for the purpose of this act; and the municipal council is invested with jurisdiction to order any of the work mentioned in section two hundred and thirty-nine of this act to be done on any of said streets, lanes, alleys, places, or courts, when the grade and width of said streets, lanes, alleys, places, or courts have been officially established; and for the purposes of this act the grade of all intermediate or intersecting streets, lanes, alleys, places, or courts in any one block shall conform to the grades as established of the crossings of the main streets.

Power to make street improvements—Accepted streets.

SEC. 236. The municipal council is hereby authorized and empowered to order the whole or any portion of the said streets, lanes, alleys, places, or courts graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, piled or repiled, capped or recapped, and to order sidewalks, sewers, cesspools, manholes, culverts, curbing, and

crosswalks to be constructed, and to order any streets and sewers cleaned, and to order any other work to be done which shall be necessary to make and complete the whole or any portion of said streets, lanes, alleys, places, or courts, and they may order any of the said work to be improved; and when any street, or portion of a street, has been or shall hereafter be constructed to the satisfaction of the municipal council and the superintendent of streets, and shall have a brick sewer, or cement or iron stone pipe constructed therein, under such regulations as said municipal council shall adopt, the same shall be accepted by it, and thereafter shall be kept open and improved by such city and county, the expense thereof, together with all work done in front of city and county property, to be paid out of the street department fund, or other proper fund; provided, that the municipal council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing and one block in length, or one entire crossing); and provided further, that it may, partially or conditionally, accept any street, or portion of a street, without a sewer or pipe therein as above stated, if a sewer or pipe therein shall be deemed by them unnecessary; but the lots of land previously assessable for the cost of construction of a sewer or pipe shall still remain and be assessable for such cost, and for the cost of repair and restoration of the street damaged in the said construction, when thereafter a sewer or pipe shall be deemed necessary, the same as if no partial or conditional acceptance had ever been had. The said superintendent of streets shall keep in his office a register of all accepted streets, the same to be indexed so that reference may be easily had thereto.

Notice of intention.

Sec. 237. The municipal council may order any work authorized by this act, the cost and expense of which is made chargeable, or may be assessed upon private property by special assessment, to be done, after notice of its intention so to do in the form of a resolution describing the work, and signed by the clerks of both branches of the municipal council, has been published for the period of five days in the paper doing the printing for such city and county, and also in two daily newspapers, one of which newspapers shall be published as a morning edition and one as an evening edition, printed and published in such city and county, for five days, Sundays and non-judicial days excepted; provided, that no such notice shall be given or order made for the grading of any street unless the majority of the frontage of the lots and land fronting on the work proposed to be done, and described in said resolution, or which is to be made liable for such grading, except public property, shall have been represented by the owners thereof, or by their agents, in a petition to the said municipal council, stating that they are the owners and in possession or agents of the lots named in the petition, and also requesting that such improvements or street work shall be done. All owners of lands, or lots, or portions of lots, who may feel aggrieved or have objection to the ordering of the work described in said notice, or who may have objection to any of the subsequent proceedings of the municipal council in relation to the work mentioned in such notices of intention, or may have any objections to any of the acts of the superintendent of streets, and the city and county surveyor of such city and county, in the discharge of any of the obligations or duties imposed upon him or them by virtue of their offices, shall file with the clerk of either branch of the municipal council a petition or remonstrance, wherein they shall set forth in what respect they feel aggrieved, or the acts or proceedings to which they object, which petition or remonstrance shall be passed upon by the municipal council, and its deci-

sions thereon shall be final and conclusive; but the municipal council shall not order the work described in said notices to be done unless all objections and protests that may have been presented and filed as aforesaid shall have been by them disposed of. Should the owners or agents of more than one half in frontage of the lots and lands fronting on the work proposed to be done, and designated in said notice or resolution, or liable to be assessed for work, file with the clerk of either branch of the municipal council written objections against any grading described in said notice, at any time before the expiration of the publication of said notice of intention, and the publication thereof as hereinbefore provided, then and thereupon the municipal council shall be barred from proceeding further for the period of six months, and shall not renew the notice of intention for doing any street work so protested against within six months, unless the owners or agents of a majority of the frontage of the lots and lands fronting on said street work, or liable to be assessed therefor as aforesaid, shall petition anew for the work to be done. At the expiration of any notice of intention the municipal council shall be deemed to have acquired jurisdiction to order any work to be done which is authorized by this act; and it is further provided, that where any public street shall have been graded, or graded and macadamized, or graded and paved, for the distance of one or two blocks upon each side thereof of any one or two blocks or crossing of a street which is not improved, it shall be the duty of the municipal council, upon the recommendation of the superintendent of streets, to order the notice provided in this section to be given without the petition provided first aforesaid; and if the owners of three fourths of the frontage of the land and lots fronting on such portions of said streets to be graded or improved shall, within the time prescribed in said notice, file written objections to the improvement of the said street, the municipal council shall duly consider said objections before ordering said work; and if it shall decide and declare by an entry in the minutes of both branches thereof that the objections so made are not good, thereupon it shall be deemed to have acquired jurisdiction to order any such street work to be done that is described in said notice; provided further, that when one half or more of the grading, planking, macadamizing, paving, sidewalking, or sewer-ing of any one street, lying between two main street crossings has been already performed, the municipal council may order the remainder of such grading, planking, macadamizing, paving, sidewalking, or sewer-ing to be done, notwithstanding the objections of any or all of the property owners.

Petition of property owners.

Sec. 238. The owners of more than one half in frontage of lots and lands fronting on any street, lane, alley, place, or court, mentioned in section two hundred and thirty-eight of this act, or their duly authorized agents, may petition the said municipal council to order any of the work mentioned in section two hundred and thirty-nine of this act to be done; and the said board may order the work mentioned in said petition to be done, after notice of their intention so to do has been published as provided in section two hundred and forty of this act. No order or permission shall be given to grade, or pile and cap, any street, lane, alley, place, or court, in the first instance, or any portion thereof, without extending and completing the same throughout the whole width of said street, lane, alley, place, or court. When any such work has heretofore been done, or when any such work shall hereafter be done, in violation of this section, neither the lots or portions of lots in front of which such work has been or may be done hereafter, nor the owners thereof, shall be ex-

empt from assessments made for the payment of the work afterward done to complete said street, lane, alley, place, or court to its full width, as provided in this act.

Map and estimate of cost.

SEC. 239. At the expiration of the publication of such notice the clerk of either branch of the municipal council shall cause to be transmitted to the city and county surveyor, and to the superintendent of streets of such city and county, a copy of the resolution, order, or ordinance authorizing the said street work. The said surveyor shall thereupon, within fifteen days from the completion of the publication mentioned in the last section, transmit to said municipal council a map of the district to be benefited by said street improvement; which map shall show the relative location of each lot to the work proposed to be done, and be signed by said surveyor. The superintendent of streets shall also thereupon, within fifteen days from the completion of said publication, transmit to the municipal council an estimate of the cost and expense of said improvement, which said estimate shall contain the items composing the gross sum estimated, and shall be signed by said superintendent.

Adoption of map and estimate—Plans and specifications—Proposals.

SEC. 240. The municipal council shall, at the first meeting after the receipt of such map and estimate, or as soon as may be practicable, either adopt, modify, or reject the same, and, after its final action upon said map and estimate, the same shall be transmitted to said superintendent of streets, who shall record the same in a book to be kept by him for such purpose; and the said superintendent shall forthwith prepare plans and specifications for such street work, and the clerk of either branch of the municipal council shall cause to be conspicuously posted in the office of said superintendent, and also published for five days (non-judicial days excepted) in the newspapers hereinbefore mentioned, a notice inviting sealed proposals to contract for the work contemplated to be performed; such work not to be performed until after the moneys sufficient for the payment of the costs and expenses thereof shall have been levied, collected, and paid into the treasury of such city and county as herein-after provided; which notice shall substantially contain the plans and specifications above mentioned; and all notices, resolutions, and orders required to be posted or published under the provisions of this act, shall be posted or published, or both posted and published, as the law may require, by said clerk, as a matter of course, and without any special direction or authority from said municipal council. The said superintendent shall furnish specifications for the performance of any and all street work ordered by the municipal council and authorized by this act, and the time within which said work must be completed after entering into the contract for doing the same. All proposals shall be delivered to the clerk of either branch of the municipal council, and the house of which he is clerk shall, in open session, open, examine, and publicly declare the same; and all proposals shall be for a price, payable in gold coin of the United States; provided, said municipal council may reject any and all proposals, should they deem it for the public good, and also may reject the proposals of any party who may be proved delinquent or unfaithful with any former contract with such city and county; and if all proposals shall be rejected, the municipal council shall direct the clerk of either house thereof to again post said notice, and publish the same as in the first instance. All proposals shall be accompanied with a bond to such city and county, to be ap-

proved by the clerk of either house of said municipal council, in the sum of one thousand dollars, and in such additional amount as may be fixed by said superintendent of streets, with two good and sufficient sureties, who must be freeholders of such city and county (said sureties to justify in double the amount), conditioned that the party making such proposal shall or will, within ten days after notice from said superintendent that the moneys for the cost and expenses of such work have been paid into the treasury, enter into a contract with such city and county, in pursuance of such proposal, and to commence said work within five days after the execution of such contract, and complete the same within the time mentioned in the said plans and and specifications, or either of them, or within any extended time; it is further provided, that all persons proposing, owners included, who shall fail to enter into any contract as herein provided, or to complete the contracts entered into, are hereby prohibited from proposing a second time for the same work; and in case of owners, they are hereby prohibited from electing to take the same work a second time, and from entering into any contract concerning the same. At any time within five days after such money has been paid into the treasury, the owners of a majority of the frontage of lots and lands liable to be assessed for said work, or their agents, and who shall make oath that they are such owners, or the agents of such owners, may elect to do the said work, and to enter into a written contract to do the whole work at the price for which the same is awarded, upon giving the bond as hereinafter provided; and they shall commence said work within five days after the execution of such contract, and shall prosecute it diligently and continuously, and complete it within the time limited in the contract, or within any extended time; but should the said contractor, or the property owners, fail to prosecute the same diligently or continuously, in the judgment of said superintendent, or complete it within the time prescribed in the contract, or within the extended time, then it shall be the duty of said superintendent to report the same to the municipal council, who shall immediately order the clerk of either branch of the municipal council to advertise for proposals as in the first instance, and relet the contract in the manner hereinbefore provided; and it is further provided, that all contractors for street work shall, at the time of entering into said contract, execute a bond, payable to such city and county, with two or more sureties, in the sum of not less than one thousand dollars, and in such additional amount as may be fixed by said superintendent, conditioned for the faithful performance of said contract; and said sureties shall justify in double the amount of the penalty fixed in said bond; such sureties to justify before said superintendent or his deputy, and the qualifications and responsibility of such sureties shall be the same as prescribed for sureties on the official bonds of the officers of such city and county; and it is further provided, that in case of the non-fulfillment by the obligor in either of the bonds mentioned in this section, of the conditions thereof, it shall be the duty of the city and county attorney to sue for and collect the sum in said bond mentioned, in any court of competent jurisdiction, and pay the same into the city and county treasury, to the credit of the proper fund.

Assessments.

SEC. 241. After the proposal shall have been received and considered by the municipal council, the superintendent of streets shall make an assessment in proportion to the benefit upon all the land in the district shown upon said map. Said assessment shall show the work proposed to be done, the estimated cost thereof, the rate per front foot assessed against each lot within the assessment

district, the amount of each assessment, the name of the owner of each lot, or portion of lot, if known, to the superintendent, and if such owner be unknown, the word "unknown" shall be written opposite the number of the lot. (But an assessment made to a person not the owner, shall not render such assessment illegal), and the amount assessed thereon, the number of each lot or portion of lot assessed, and shall have attached thereto a diagram showing the assessment district, and the relative location of each lot assessed to the work proposed to be done, each lot being numbered in said assessment and diagram; and when completed shall be signed by said superintendent, and transmitted to the board of aldermen.

Hearing of objections.

SEC. 242. At the first meeting of the board of aldermen, after the receipt by it of the assessment made by said superintendent, as soon thereafter as may be practicable, it shall cause notice of the time and place of the hearing of all objections to said assessment to be published for at least five days (Sundays and non-judicial days excepted), prior to the time of such hearing, in two daily newspapers, one published as a morning edition, and one as an evening edition, in such city and county. All objections shall be heard in open session of said board of aldermen. At said hearing said board of aldermen may alter, modify, or confirm said assessment, as it shall deem proper; and said superintendent shall thereupon record said assessment and diagram in a book to be kept by him for that purpose. When so recorded, the several amounts assessed shall be deemed a tax levied upon the lands described in said assessment and diagram, upon which they are respectively assessed, and shall be a lien upon such parcels of land. Said superintendent shall give to each assessment a number by which the fund collected for said work shall be known, and shall immediately after the record of said assessment, as hereinbefore provided, deliver the said assessment and diagram to the tax collector of such city and county, who shall thereupon cause to be published for ten successive days (Sundays and non-judicial days excepted), in two newspapers of general circulation, one of which shall be published as a morning edition, and one as an evening edition, published in such city and county, a notice, containing a description of the proposed improvement, and of the portion of street or streets upon which the same is proposed to be done, that the same is in his hands for collection; that if said assessment is not paid within fifteen days from the date of the last publication of such notice, that the same will be delinquent; that the property assessed, and upon which the assessment remains unpaid, will be sold by said tax collector for said assessment, a brief description of the property assessed, the amount assessed thereon, and the time and place of sale, which shall be not less than five nor more than ten days after such delinquency.

Sales for delinquent assessments.

SEC. 243. On the day fixed for the sale, said tax collector, between the hours of 10 A. M. and 3 P. M., must commence the sale of the property advertised, upon which assessment remains unpaid, and sell the same at public vendue, in the office of said tax collector, to the person who will take the least quantity of the respective parcels of land assessed, and pay the assessment thereon, together with two dollars to said tax collector for the duplicate certificate of sale. If the purchaser does not forthwith pay the amounts of the assessment and costs by him bid, the said tax collector shall immediately proceed to sell

such parcel or parcels again, in the same manner, for the amount of said assessment and costs.

Certificate of sale.

SEC. 244. After receiving the amount of the assessment and costs, said tax collector must make out in duplicate a certificate, dated on the day of the sale, showing the name of the person assessed, when known, a brief description of the property sold, the street improvement for which the assessment was levied, the number of the assessment, that it was sold for an assessment, the amount thereof, that the same is subject to redemption at any time within one year after sale, and specifying the date when the purchaser will be entitled to a deed; and upon payment to said tax collector of the fee for recording the same, said tax collector shall deliver one of such duplicates to the purchaser, and the same day file the other in the office of the recorder of such city and county, who shall record the same.

Lien.

SEC. 245. Upon filing the said duplicate in the office of said recorder, the lien aforesaid is vested in the purchaser, and is only divested by payment to him, or to the treasurer of such city and county, for his use, of the purchase money and costs, and two per cent. a month and fraction of a month up to date of redemption thereon. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase.

Deed.

SEC. 246. If property is not redeemed within twelve months from the date of such sale, the tax collector must make to the purchaser, or his assignee, a deed, reciting substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The matters recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged, shall be prima facie evidence that:

1. The property was assessed as required by law.
2. That the assessment was not paid.
3. That the property was sold at the proper time and place, and by the proper officer.
4. That the person who executed the deed was the proper officer therefor.
5. That the title to the property therein described is vested in the purchaser, his heirs, or assigns, free from all incumbrances, except taxes, for purposes of revenue.

Payments into treasury.

SEC. 247. Said tax collector shall daily pay into the treasury of such city and county, to the credit of the proper street improvement fund, all moneys collected by him on account of such fund, and shall, upon the receipt of any assessment, mark the same paid upon the assessment roll, and shall receipt to the person paying the same therefor, which receipt shall show the number of the street improvement fund, the work done, the number of the lot upon which the assessment is paid, and the amount thereof.

Contracts.

SEC. 248. When the full amount of such assessment has been collected by said tax collector, the said collector shall certify to the superintendent of streets that the same has been collected and paid into the treasury of such city and county. Upon the receipt of such certificate from the tax collector, the said

superintendent shall forthwith notify the person whose proposal shall have been accepted by the municipal council, as aforesaid, of the payment of such money into the treasury, and that such city and county is ready to enter into a contract with such person for such work, in pursuance of said proposal; and said superintendent shall hold himself in readiness to execute said contract on behalf of such city and county. The board of aldermen may extend the time of performance of the contract, as fixed by the contract or specifications, upon the recommendation of said superintendent; but the time of the performance shall in no event be in any manner extended beyond sixty days after the time fixed in such specifications or contract for the completion of said work.

Completion of contract—Publication.

Sec. 249. Whenever any contract shall have been completed to the satisfaction and acceptance of the superintendent of streets, he shall deliver to the contractor a certificate to that effect, and shall also notify said board of aldermen that said work and improvement, and the contract therefor, have been completed to his satisfaction and acceptance, and that he has given to said contractor his certificate to that effect. Thereupon said board of aldermen shall direct the clerk of said board to give notice by publication for five days, in a newspaper published and circulated in such city and county, that said work and improvement, and the contract therefor, have been completed to the satisfaction and acceptance of the superintendent of streets of such city and county.

Appeals.

Sec. 250. Any person owning property which has been assessed to pay the cost and expenses of such work and improvement, feeling aggrieved at the manner in which such work and improvement shall have been done, or feeling aggrieved at any act or determination of said superintendent of streets, in relation to said work and improvement, subsequent to the date of the execution of the contract therefor, shall, within five days from the first publication of said notice, appeal to said board of aldermen by briefly stating their objections in writing, and by filing the same with the clerk of said board. At the meeting of the board next ensuing after the expiration of said five days, allowed above for filing said objections, the said board, if no objections have been filed, shall, by resolution, ratify and confirm all said acts of said superintendent of streets, and shall accept such work and improvement. But if any such objections last aforesaid shall have been filed within said five days, then said board shall fix the time for hearing such objections, and shall direct the clerk of said board to notify all persons desirous of being heard upon said objections of the time and place when and where said board will hear all parties desiring to be heard upon the same. Said notice shall be in writing, and shall be given by posting the same in three of the most conspicuous public places in such city and county, and published five days in two daily newspapers (one morning and one evening edition), at least five days before the time set for said hearing. At the time and place fixed for said hearing of said objections, said board shall proceed to hear all parties present and desiring to be heard upon the matters specified in such objections. And whenever said board shall have determined, by personal inspection or otherwise, that said work and improvement objected to have been completed in all respects according to the contract therefor, they shall, by resolution, accept said work and improvement, and ratify and confirm all said acts of said superintendent of streets in relation thereto.

Action upon appeal.

SEC. 251. If, upon such hearing, said board of aldermen shall determine by personal inspection or otherwise that said work and improvement have not been performed according to the contract therefor, then they shall notify the said superintendent of streets to that effect, specifying in said notice to him the particulars in which said contract has not been performed. And said superintendent of streets shall thereupon at once cause said contractor to complete said work and improvement under the contract therefor in those particulars specified by said board in said notice to said superintendent of streets. Whenever said board shall ascertain that said work and improvement have been completed in all respects according to the terms of the contract therefor, they shall, by resolution, accept such work and improvement. All acts and determinations of said board of aldermen upon appeals, under the provisions of this and the next preceding section, shall be final and conclusive upon all persons entitled to an appeal thereunder.

Payments to contractors.

SEC. 252. Whenever any work or improvement shall have been so completed upon any street, lane, alley, court, or place in such city and county for the payment of costs and expenses, of which an assessment shall have been levied and collected under the provisions of this act, the said board of aldermen shall, by resolution, direct the treasurer to pay out of the appropriate fund, at the expiration of fifteen days from the passage of such resolution, to the contractor who shall have so completed said work and improvement, the amount to which he is entitled under the terms of his contract, provided, however, that such payment by the treasurer shall be made subject to the following provisions, to wit: That any person or persons who have performed labor upon or furnished materials for the construction of said work or improvement, may file within said fifteen days, with the treasurer, any written claim or claims he or they may have on account of such labor performed or materials furnished; and, at the expiration of said fifteen days, said treasurer shall pay to said contractor the amount specified in said last named resolution, less the aggregate amount of all such claims, if any, theretofore filed in accordance with the provisions of this section. Should any money be retained by said treasurer on account of such claim or claims, he shall pay over the amount of each claim only upon the order therefor of said contractor, indorsed by the claimant entitled thereto, or upon the order therefor of any court of competent jurisdiction.

Repayment of surplus moneys.

SEC. 253. And when all moneys required to be paid by the said treasurer under the last preceding section shall have been by him paid, as required in said section, if there is any money remaining in the fund out of which said payments shall have been made as aforesaid, it shall be the duty of said treasurer immediately to report the amount of said remaining moneys to said board of aldermen. Thereupon it shall be the duty of said board to empower and direct said treasurer to distribute and repay such remaining moneys, and in the proportion of the amounts of the original assessments, to the persons by or for whom said original assessments were paid, or to their legal representatives. And it shall be the duty of said treasurer, in each instance of such repayment, to require, receive, and file away a receipt for said proportionate amount from said persons or their legal representatives. And in no case shall a contractor who has failed to fulfill the terms and conditions of his contract be entitled to receive any portion of the contract price therefor, and he shall be deemed to

have forfeited all right to recover or receive any compensation whatever under said contract.

Work on accepted streets.

SEC. 254. No contract to do any work upon any accepted streets other than cleaning streets and sewers shall be let, but such work shall be done under the direction of the superintendent of streets, by laborers employed by such city and county through said superintendent, at such wages as may be from time to time fixed by the municipal council. All contracts for materials necessary to be used for work on accepted streets must be given by the municipal council to the lowest bidder offering adequate security, after due public notice, for not less than five days, in at least two newspapers published in such city and county.

Repairs in case of urgent necessity.

SEC. 255. In case of urgent necessity, the superintendent of streets may, and it shall be his duty to repair any of the unaccepted public streets, sewers, or crossings cornering thereon; and the expense of the same shall be paid out of the street department fund, in the same manner as provided for the improvement of accepted streets; and all such repairs shall be made in uniformity with the work to be repaired, but such repairs between two main streets shall not exceed in cost the sum of two hundred dollars, and the repairs of any crossings shall not exceed in cost the sum of one hundred dollars; provided, the sums so expended shall not exceed the sum of two thousand dollars in any one month. Such work, and the material therefor, shall be performed and provided in the same manner as provided in the foregoing section concerning labor and material for accepted streets.

Damages on account of defective streets.

SEC. 256. No recourse shall be had against such city and county for damage to person or property suffered or sustained by or by reason of the defective condition of any street or public highway of such city and county, whether originally existing or occasioned by construction, excavation, or embankment, or want of repair of said street or public highway; and whether such damage be occasioned by accident on said street or public highway, or by falling from or upon the same; but if any person while carefully using any street or public highway of such city and county, graded, or in course of being graded, or carefully using any other street or public highway leading into or crossing the same, be injured, killed, lost, or destroyed; or any horses, animals, or other property be lost, injured, or destroyed, through any defect in said street or public highway, graded, or in course of being graded, as aforesaid, or by reason of any excavation or embankment in or of the same, or by falling from or upon such embankment or excavation, then the person or persons upon whom the law may impose the duty either to repair such defect or to guard the public from the excavation, embankment, or grading aforesaid, and also the officer or officers through whose official neglect such defect remained unrepaired, or said excavation or embankment remained unguarded as aforesaid, shall be jointly and severally liable to the person or persons injured for the damages sustained.

Notices to improve and clean filth from unaccepted streets.

SEC. 257. The superintendent of streets may require, at his option, by notice in writing, to be delivered to them personally or left on the premises, the owners, tenants, or occupants of lots or portions of lots liable to be assessed for work done under the provisions of this act, to improve forthwith any of the

work mentioned in section two hundred and thirty-six of this act in front of the property of which he is the owner, tenant, or occupant, to the center of the street or otherwise, as the case may require, or to remove all filth, sand, earth, or dirt from the street in front of his premises; and by a like notice, to be served personally upon the president or any officer of a railroad corporation or company, or to be left at the office of said corporation or company, to require such corporation or company to improve forthwith any work mentioned in this act which said corporation or company are required by law to do and perform; said notice to specify what improvement is required, or work is to be done. After the expiration of five days, if such notice shall not have been complied with, such proceedings shall be taken by the proper authorities to cause the moneys necessary for the doing of such work to be paid into the treasury, as is hereinbefore provided in reference to work and improvements upon unaccepted streets, and to be paid for in the same manner.

Service of notices.

Sec. 258. Notices in writing, which are required to be given by the superintendent of streets, under the provisions of this act, may be served by any police officer, or by any male citizen over the age of twenty-one years, and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent (who is hereby authorized to administer oaths), or any other person authorized to administer oaths. The superintendent of streets shall keep a record of the fact of giving such notices and proof of service, and shall keep the original proof thereof.

TAXES—FUNDS.

15,076. *Tax levy—Funds.*

Sec. 259. *First*—On or before the fourth Monday of July, annually, the municipal council of such city and county shall levy the amount of taxes for State, city, and county purposes, required by law to be levied upon all property not exempt from taxation; said amount to be such as the said council may deem sufficient to provide for the payment of all demands upon the treasury authorized by law to be paid out of the same; provided, that such taxation, exclusive of the State tax and any and all special taxes, now or which hereafter may be authorized by law, shall not in the aggregate exceed the rate of one dollar upon each one hundred dollars valuation of the property assessed; provided further, that the said municipal council shall, in making the said levy of taxes, apportion and divide the taxes so levied, and to be collected and applied to the several specific funds known as the corporation debt fund, general fund, school fund, street light fund, street department fund, or other fund provided for by law, or by the said council, according to the estimate of said council of the necessities of the said funds, except that the rate for the school fund shall not exceed thirty-five dollars for each pupil who shall have attended and been taught the preceding year; and provided further, that the said municipal council shall authorize the disbursement of said money for the purposes hereinafter mentioned; and at the close of each fiscal year the said council shall direct the treasurer to transfer all surplus moneys of all funds, excepting the school fund, after liquidating or providing for all outstanding demands upon said funds, to the general fund; but no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund until all the indebtedness arising in any fiscal year, and payable out of said funds so raised for said fiscal year, shall have been paid and discharged.

Second—The corporation debt fund shall be applied to and used for the pay-

ment of the interest, and to extinguish or provide for the extinguishment of the lawfully contracted funded debts of such city and county, in accordance with laws in force at the time of the organization of such city and county under this act.

Third—The general fund shall be applied and used for the payment of all sums authorized by law to be paid out of the general fund, and not otherwise provided for in this act.

Fourth—The school fund shall be applied and used for the payment of all sums authorized by law to be paid out of the school fund.

Fifth—The street light fund shall be applied and used in payment for lighting the streets of such city and county, and for the repair of lamps and posts, in pursuance of any existing or future legal contract of such city and county.

Sixth—The street department fund shall be applied and used for repairing and improving all streets, lanes, and the crossings thereof, which shall have been or hereafter may be accepted, so as to become a charge upon such city and county; for cleaning streets, lanes, crossings, and sewers; and for the expense of improvements of streets in front of school lots; for all street work in front of or assessable upon property belonging to such city and county; for all street work on the water front of such city and county, not by law assessable upon private property; for all work authorized by the said council, upon the recommendation of the superintendent of streets, as immediately essential for the safety of life, limb, or property, or necessary for public health, or which can not be by law assessed upon private property, and for such other objects relating to streets and highways as shall be directed by law or said council to be paid therefrom. All moneys received from licenses on vehicles, from the income from street railroads, from fines and penalties for violation of any law or ordinance regulating vehicles on the public streets, shall be paid into the street department fund.

DEMANDS ON TREASURY.

15,077. *Payments from treasury—Restrictions.*

SEC. 260. No payment can be made from the treasury or out of the public funds of such city and county, unless the same be specifically authorized by law, nor unless the demand which is paid be duly audited, as in this act provided, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the auditor in favor of any person, officer, company, or corporation in any manner indebted thereto without first deducting the amount of such indebtedness, nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required by law; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law or by the regulations established by the municipal council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other act of the legislature regulating the duties of such officer, on being required in writing to comply therewith by the president of the board of aldermen, or any member of the finance committee of the municipal council; nor in favor of any officer for the time he shall have absented himself, without lawful cause, from the duties of his office during the office hours prescribed in this act, and the auditor may examine any officer receiving a salary from the treasury, on oath, touching such absence.

Term "audited" defined.

SEC. 261. The term "audited," as used in this act, with reference to demands upon the treasury, is to be understood their having been presented to and passed upon by every officer and board of officers, and finally allowed as required by law; and this must appear on the face of the paper representing the demand, or else it is not audited.

Demands to be presented to auditor.

SEC. 262. Every demand upon the treasury, except the salary of the auditor, and including the salary of the treasurer, must, before it can be paid, be presented to the auditor for such city and county, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of such city and county is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the auditor, or the municipal council, or either branch thereof, or any board, committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. No demand can be approved, allowed, audited, or paid, unless it specify each several item, date and value composing it, and refer to the law, by title, date, and section, authorizing the same.

Demands to be approved and allowed.

SEC. 263. The demand of the auditor for his monthly salary shall be audited and allowed by the president of the board of aldermen. All other monthly demands on account of salaries, allowances, or compensations fixed by law or this act, and made payable out of the treasury of such city and county, may be allowed by the auditor without any approval. All demands payable out of the school fund must, before they can be allowed by the auditor, or paid, be previously approved by the board of education, or by the president thereof, and superintendent of schools, acting under express authorization of said board. Demands for teachers' wages, or other expenses appertaining to any school, can not be approved, allowed, or audited to an amount exceeding the share of school money which such school will be entitled to have apportioned to it during the current fiscal year. All other lawful demands payable out of the treasury, or any public funds of such city and county, and not hereinbefore in this section specified, must, before they can be allowed by the auditor in any manner, or recognized, or paid, be first approved by the municipal council, except, if the demand be under two hundred dollars, by the mayor and two members of the board of aldermen appointed by the said board for that purpose, with power to act under and subject to its instructions and regulations during recess of the said board. The auditor must number and keep a record of all demands on the treasury allowed by him, showing the number, date, amount and name of the original and present holder, on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers, or board it has been so approved; and it shall be deemed a misdemeanor in office for the auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

Administration of oaths—Illegal approvals—Copies of records.

SEC. 264. The mayor, mayor's clerk, auditor, auditor's clerk, chief of police, police commissioners, president of the board of education, each member of the municipal council, and every other officer required by law or ordinance to allow, audit, or certify demands upon the treasury, or to perform any other official act or function, shall have power to administer oaths and affirmations, and take and hear testimony concerning any matter or thing concerning any demand upon the treasury, or otherwise relating to their official duties. Every officer who shall approve, allow, or pay any demand on the treasury not authorized by law, or by a valid ordinance of the municipal council, passed in accordance with the same, or in case it is the act of a board, who shall, as a member thereof, vote for the same, shall be liable to the city and county individually, and on his official bond, for the amount of the demand so illegally approved, allowed, or paid. Copies or extracts from said books, duly certified, shall be given by the officer having the same in custody, to any citizen demanding the same, and paying fifteen cents per folio of one hundred words for such copies or extracts.

Payment of audited demands.

SEC. 265. Every lawful demand upon the treasury, duly audited as in this act required, shall in all cases be paid on presentation, and canceled, and the proper entry thereof be made, if there be sufficient money in the treasury belonging to the fund out of which it is payable; but if there be not sufficient money belonging to said fund to pay such demand, then it shall be registered in a book to be kept by the treasurer for that purpose, showing its number, when presented, date, amount, name of the original holder, and on what account allowed, and out of what fund payable, and being so registered, shall be returned to the party presenting it, with an indorsement of the word "Registered," dated and signed by the treasurer.

Investigation in case of non-payment.

SEC. 266. Whenever any audited demand has been presented to the treasurer and not paid, and it be made known to the president of the board of aldermen, he shall proceed immediately to investigate the cause of such non-payment, and if it be ascertained that the demand has been illegally and fraudulently approved or allowed, he shall cause the officer guilty of such illegal and fraudulent approval or allowance to be suspended and proceeded against for misconduct in office. If he ascertains that the demand has been duly audited, and that the treasurer has funds applicable to the payment thereof, which, without reasonable grounds for doubt as to the legality of such payment, he refuses to apply thereto, he shall proceed against him as a defaulter. If it be ascertained that the demand was not paid for want of funds, then he shall cause the tax collector, or other officer or person who ought to have collected or to have paid the money into the treasury, if they have been grossly negligent therein, to be proceeded against according to law, and without delay.

Receipts for moneys paid into treasury.

SEC. 267. The treasurer, for all money received into the treasury, and all other officers of such city and county receiving money from the treasury for disbursement, shall give receipt for all moneys by them received, which receipt shall be presented to and countersigned by the auditor. The auditor, before countersigning any such receipt, shall number it and make an entry in a book of record, to be kept in his office for that purpose, of the number, date, and

amount, by whom and in whose favor given, and on what account. No such receipt shall be valid as evidence in favor of the person or officer receiving it till presented to the auditor and countersigned as aforesaid; and any person or officer using or offering to use such receipt as evidence in favor of such person or officer, of the payment specified in it, without being first countersigned as above required, shall forfeit to such city and county double the amount of money specified in such receipt.

Appeal in case of rejection of demand.

SEC. 268. If any person feel aggrieved by the decision of the auditor, or other proper officer or officers of such city and county, except the board of education, in the rejection of or refusal to approve or allow any demand upon the treasury presented by such person, he may appeal and have the same passed upon by the municipal council, whose decision thereon shall be final; and if the said council shall approve and allow the demand, it shall afterwards be presented to the auditor, and entered in the proper book, in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction; provided, that from the decision of the president of the board of education and superintendent of schools, refusing or not agreeing to allow any demand payable out of the school fund, the appeal shall be taken to the board of education, whose decision shall be final; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction.

Opinion of city and county attorney—Vote on claims against treasury.

SEC. 269. In all cases of such appeals to the municipal council, or the board of education, if, in the opinion of said council or of said board, deemed expedient, the opinion of the city and county attorney shall be required and obtained in writing, read, and filed; and, upon such appeal and in all other cases upon the approval or allowance of any demand upon the treasury or school fund, the vote shall be taken by "yeas" and "nays," and entered upon the records.

EXAMINATION OF BOOKS.

15,078. *Examination of treasurer's books.*

SEC. 270. The president of the board of aldermen, in conjunction with the auditor and the chairman of the house of delegates of such city and county, shall every month examine the books of the treasurer and other officers of such city and county having the collection and custody of the public funds, and shall be permitted and it shall be their duty to see and count over all the moneys remaining in the hands of such treasurer, or other officer, after having previously ascertained the amount which should be remaining in his hands. The finance committee shall also, twice a year, viz., on the first Monday in July and January, make the same examination of books, count said money, and report the result to the municipal council. If they ascertain clearly that such treasurer, or other officer, is a defaulter, they shall forthwith take possession of all funds, books, and papers belonging to such office, and the president of the board of aldermen shall appoint a person to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay, and until the said officer shall be restored to his duty or office, or until his successor shall be appointed, or elected, and qualified. The person so appointed shall give bond and take the oath of office in the same manner as was required

of the officer whose place he is appointed to fill. If the treasurer or other officer so discharged as a defaulter be acquitted thereof, he shall resume his duties.

EXPENDITURES.

15,079. *Limitation on monthly expenditures.*

SEC. 271. Neither the municipal council, the board of education, nor any other board, commission, committee, officer, or person, shall have power to authorize, allow, contract for, pay, or render payable, and they are prohibited from authorizing, allowing, contracting, paying, or rendering payable, in present or future, in any one month, any demand or demands, liability or liabilities, against the treasurer of such city and county, or the funds thereof, which shall, in the aggregate, exceed one twelfth part of the amount allowed by laws existing at the time of such contract, authorization, allowance, payment, or liability, to be expended within the fiscal year of which said month is a part; provided, however, that if, at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the municipal government of such city and county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended, by order of the municipal council, for the same purpose allowed by law in any succeeding month of the fiscal year. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made, in violation of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasurer of such city and county; and all officers of such city and county are hereby charged with notice of the condition of the treasury of such city and county, and the extent of the claims against the same.

PUBLIC ACCOUNTS.

15,080. *Public accounts.*

SEC. 272. It is the duty of the superintendent of streets to keep an exact account of all street and sewer work upon accepted streets, and it shall be the duty of the building committee to keep an account of all work done on all public buildings, and every other expenditure chargeable against the treasury in any of the departments under charge of said building committee and officers; and it is the duty of the superintendent of schools, the president of the board of education, the president of the board of fire commissioners, the president of the board of election directors, the president of the board of police commissioners, and every other officer and board having the power to contract any demand, or to aid in the contraction of any demand against said treasury, to keep an exact and full account of all purchases, expenditures, and liabilities made or contracted in their respective departments, and for the purpose of making such accounts, said officers shall have power to demand and receive from every other city and county officer, detailed statements in writing, when necessary to keep said accounts, and it is hereby made the duty of any and all officers to furnish said statements when demanded; such accounts shall be constantly posted up to date, so that it can be known exactly at any time what part or proportion of the monthly sum allowed by this act and existing laws has been contracted for, paid, or rendered liable to pay in the present and future. Such accounts shall show every contract for street and sewer work, public buildings, purchases of material, or supplies, or other expenditure, in whatever department it is made, from its incipency through the various stages of progress to completion, with the amount to be paid for the same so far as the same is capa-

ble of exact estimation, and when not, then a sworn estimate by the proper officer of the probable cost. Whenever, at any time, the contracts performed or unperformed, claims due or to become due, exceed said one twelfth part of the amount that can be lawfully expended out of any fund in the current fiscal year, the president of the board, head of department, or other officer or board having the supervision of such expenditure, shall give notice thereof in writing as to his or their department to the auditor and the treasurer and to the municipal council a notice in writing, served upon the clerks of each branch thereof and shall post the same in his or their office, from which time no further contracts shall be made, or expenditures authorized or allowed, until such time has elapsed as will allow of further proceedings consistent with the provisions of the law.

Liability of officers for authorizing claims in excess of limitation.

SEC. 273. Any failure or neglect on the part of any of said officers or boards, or members of boards, to comply with any of the provisions of the preceding sections shall render such officer and each member of such board consenting thereto, liable personally and upon his official bond to any contractor or other person suffering damage by said failure or neglect; but such contractor or person damaged shall have no remedy against such city and county, and the said officers or members of boards authorizing or aiding to authorize, auditing, or allowing any claim or demand upon or against said treasury, or any fund thereof, in contravention thereof, shall be liable in person and on his official bond to the contractor or person damaged to the extent of his loss. The treasurer paying any claim authorized, allowed, or audited, in contravention of the provisions thereof, shall be liable on his official bond to refund the same to such city and county, and it shall be the duty of the city and county attorney to sue for the same, if necessary.

Expenditures in cases of emergency.

SEC. 274. In case of any great public calamity or danger, such as earthquakes, conflagrations, pestilence, invasion, insurrection, or other great and unforeseen emergency, the provisions of said act may be temporarily suspended, as to any lawful contract, authorization, or expenditure necessary to avert, mitigate, or relieve such evil; provided, that such expenditure, contract, or authorization shall be passed by the unanimous vote of all members elected or appointed to each house of the municipal council, and entered in the journals of each house, and the character and fact of such emergency must be recited in the ordinance authorizing such action; and such ordinance must be approved by the mayor, auditor, and treasurer of such city and county.

PUBLIC PRINTING.

15,081. *Public printing and advertising.*

SEC. 275. All city and county official printing and advertising, for all departments thereof, excepting that of the sheriff's office, shall be let by the municipal council during the month of January of each year, to the lowest responsible bidder, printing, publishing, and proposing to advertise in a newspaper of general circulation in such city and county, and that has been in existence at the time of the letting of said contract at least three years; and provided, that any such newspaper may bid for the whole or any part of the advertising. The bids shall be opened by the board of aldermen, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. All such contracts, when awarded, shall be entered into and

bonds taken by the clerk of the board of aldermen, in such sum and containing such conditions as the board of aldermen shall provide.

Public contracts.

Sec. 276. All contracts relating to city and county affairs shall be in writing, signed and executed in the name of the city and county by the officer authorized to make the same; and in cases not otherwise directed by the law, such contracts shall be made and entered into by the mayor. All contracts shall be signed by the auditor and registered, by number and dates, in his office, in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a contract fails of completion, new bids shall be invited, opened, and awarded, as provided in this act in the first instance, until a sufficient contract is executed. In all cases when the board of aldermen have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, it may, in its discretion, reject any and all bids, and cause the same to be readvertised. The provisions of this act, as to bids and contracts, shall be enforced by the municipal council by appropriate ordinances as to all bids, proposals, and contracts with such city and county, or any department thereof.

Interest in contracts—Felony.

Sec. 277. Any officer or commissioner of such city and county, or any officer or member of any house, board, or department of the government thereof, who shall be, directly or indirectly, interested in, or a beneficiary or participant of the profits of any contract made with or for such city and county, or any board or department thereof, or who shall participate in the profits made by any person or persons upon services, labor, purchases, sales, subsistence, supplies, materials, or any article or thing furnished to or done for such city and county, or any institution, public work, or branch, or department of the government thereof, or sold by the same, which contract, profit, purchase, sale, or supply is made, or could have been made, influenced, or brought about through or by the official action or conduct of such officer, commissioner, or member of such board, except the official salary or compensation of such officer, commissioner, or member of such board or department provided expressly by law, shall be deemed guilty of a felony, and, on conviction by any court of competent jurisdiction, punished accordingly. Any commissioner, officer, clerk, or other person having custody of or access to any bids or proposals, whether sealed or otherwise, for supplying or furnishing any goods, provisions, subsistence, labor, material, printing, or other thing of any nature, or constructing, cleaning, repairing any work or thing, or doing or furnishing anything whatsoever to such city and county, or any department, board, commissioner, or officer thereof, who shall open or examine into any one or more of such bids or proposals, or change, interline, alter, or otherwise tamper with the same, or shall purposely find out the contents thereof, or who shall aid, abet, assist, or permit another so to do before or in advance of the time prescribed by law for the opening thereof, or any lawful postponement of such time, shall be deemed guilty of a felony, and, on conviction by any court of competent jurisdiction, shall be punished accordingly.

Mayor to supervise contracts.

Sec. 278. The mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations

failing to fulfill their agreements. And it is the duty of any and every city and county officer, when it shall come to his knowledge that any contract with such city and county relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the mayor. A failure to do so shall be a sufficient cause for the removal of any officer of any department. The mayor shall give a certificate, on demand, to any officer giving such information that he has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty. The city and county attorney shall prosecute all suits so ordered by the mayor.

Questions of difference between officers.

SEC. 279. All questions of differences between the officers of such city and county, as to their relative duties, may be referred by either of them to the city and county attorney, who shall examine and determine such questions, and his decision shall be final as between such officers.

INTERPRETERS.

15,082. *Interpreters.*

SEC. 280. There shall be appointed by the judges of the superior court of such city and county five competent persons deputies to act as interpreters and translators of the following languages: French, German, Italian, Spanish, Portuguese, Chinese, and Slavonian. The said deputies shall each receive a salary of one thousand two hundred dollars per annum, which shall be paid in the same manner as the salaries of other officers are paid. It shall be the duty of each of said deputies to attend in all the courts in and for such city and county, when required by any of the judges thereof, without further compensation than the salaries above provided.

CITY PRISON.

15,083. *City prison.*

SEC. 281. The city prison of such city and county shall be under the sole and exclusive control, direction, and superintendence of the chief of police, who may establish from time to time the discipline and government thereof, and may detail to duty therein such number of officers as the exigency shall require.

REPORTS.

15,084. *Annual reports of officers.*

SEC. 282. The following officers, and the heads of the following departments of such city and county, shall report to the municipal council on or before the first day of August of each year, the condition of their respective departments during the fiscal year ending June thirtieth, previous thereto, embracing all their operations and expenditures: auditor, assessor, tax collector, county clerk, superintendent of streets, fire department, hospital, alms-house, park commissioners, treasurer, sheriff, county recorder, city and county surveyor, license collector, public schools, fire alarm and police telegraph, pound-keeper, board of health, city and county attorney, industrial school, police, coroner, health officer, justices' court, city hall commissioners, home for the care of the inebriate, board of election directors, commissioner of elections, house of correction, city cemetery, free public library, and the building committee of the municipal council. Immediately after the first Monday in February the mayor and municipal council shall make up and publish an extract from these several

reports, and other sources, of the operations, expenditures, and condition of all departments of government of such city and county.

Taking effect of act.

Sec. 283. This act shall take effect on the first day of July, eighteen hundred and eighty, except section five, which shall take effect immediately.

An Act to confer power upon supervisors of cities and counties containing more than one hundred thousand inhabitants, to extend and complete all main intercepting sewers heretofore partially constructed.

Approved April 15, 1880; 1880, 61 (Ban. ed. 236).

15,085. Supervisors to complete intercepting sewers partially constructed.

SECTION 1. The supervisors of any city and county in this State containing a population of more than one hundred thousand inhabitants, shall have power, and it shall be the duty of said supervisors, to promote the sanitary condition of such city and county, to complete all main intercepting sewers heretofore constructed, or partially constructed, at the expense of such city and county, and to extend the same to a suitable and proper outlet, deemed necessary for sanitary purposes in the judgment of said supervisors, the expense thereof to be chargeable to and to be paid out of the general fund of the treasury of such city and county. The said work to be performed under the charge and supervision of an experienced engineer, to be appointed by said board or boards. The expense of said work is not to exceed one hundred and fifty thousand dollars.

Sec. 2. This act shall take effect and be in force from and after its passage.

An Act to empower consolidated cities and counties of over one hundred thousand inhabitants, to make alterations to county prisons and county jails, for sanitary purposes.

Approved April 16, 1880; 1880, 100 (Ban. ed. 337).

15,086. Supervisors, etc., to enlarge, etc., county jails.

SECTION 1. The board or boards of supervisors, or the municipal council, or other governing bodies of consolidated cities and counties having a population of over one hundred thousand inhabitants, are hereby empowered to enlarge, construct additional cells in and make necessary alterations to county prisons and county jails in said cities and counties, wherever the same are required for sanitary reasons, and to allow and order paid all expenditures therefor out of the general fund of said cities and counties.

Sec. 2. This act shall take effect and be in force from and after its passage.

An Act to empower consolidated cities and counties of over one hundred thousand inhabitants to pay out of the general fund demands for rent of court-rooms and chambers for the superior courts, and of police stations, and for salaries of janitors.

Approved April 16, 1880; 1880, 114 (Ban. ed. 373).

15,087. Supervisors, etc., to allow rent for court-rooms, police stations, etc.

SECTION 1. The board or boards of supervisors, or the municipal council, or other governing bodies of consolidated cities and counties having a population of over one hundred thousand inhabitants, are hereby empowered to allow and order paid out of the general fund of said cities and counties, all amounts required to pay for rent of court-rooms and chambers for the superior courts, rents of police stations, and salaries of all porters, engineers, and firemen, employed in public buildings and offices in said cities and counties.

Sec. 2. This act shall take effect and be in force from and after its passage.

Colusa County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,116.

Repealing act for destruction of certain wild animals, 1877-8, 2.
 Regulating fees and fixing salaries, 1877-8, 36.
 Authorizing supervisors to approve official bonds, 1877-8, 77.
 Repealing act authorizing supervisors to approve official bonds, 1877-8, 113.
 Concerning trespassing animals, 1877-8, 176.
 Authorizing construction of bridge over Sacramento River at Colusa, 1877-8, 241.
 Authorizing trustees of Zamwalt School District to borrow money, 1877-8, 243.
 Amending act incorporating Town of Colusa, 1877-8, 243.
 For relief of W. J. Johnson and others against a bail bond, 1877-8, 322.

Amending act of March 26, 1874, concerning public and private roads, 1877-8, 327.
 Authorizing issue of bonds in Town of Colusa for road purposes, 1877-8, 369.
 Granting supervisors additional powers, 1877-8, 563.
 Relating to board of supervisors, 1877-8, 567.
 Fixing amount of official bonds, 1877-8, 569.
 For relief of county (in relation to Central Pacific Railroad taxes), 1877-8, 738.
 Relating to fees of justices of the peace, 1877-8, 782.
 For drainage of certain lands, 1877-8, 1637.
 Amending act for issue of bonds for road purposes in Town of Colusa, 1880, 9 (San. ed. 29).

Constitution.

15,117.

[The constitution, which is given in the beginning of the volume, was the work of the convention called under the following act:]

An Act to provide for a convention to frame a new constitution for the State of California.

Approved March 30, 1878; 1877-8, 759.

Election.

SECTION 1. An election shall be held on the third Wednesday in June, eighteen hundred and seventy-eight, of delegates to meet in convention to revise the constitution of this State and to frame a new constitution. No other question shall be submitted to the people or voted on at such election, any statute or law to the contrary notwithstanding. All other elections called for the same time shall be held at the next general or special State election.

Number of delegates and where elected from.

Sec. 2. The number of delegates to be chosen to such convention shall be one hundred and fifty-two, to be apportioned as follows: The Counties of San Diego and San Bernardino shall jointly elect one delegate; the County of San Diego shall elect one delegate; the County of San Bernardino shall elect one delegate; the County of Los Angeles shall elect three delegates; the Counties of Santa Barbara, Ventura, and San Luis Obispo shall each elect one delegate; the Counties of Tulare, Kern, and Fresno shall elect one delegate each, and the Counties of Mono and Inyo shall elect one delegate; the Counties of Mariposa, Merced, and Stanislaus shall jointly elect one delegate; the Counties of Mariposa and Merced shall jointly elect one delegate; the County of Stanislaus shall elect one delegate; the Counties of Santa Cruz, Monterey, and San Benito shall jointly elect one delegate; the County of Santa Cruz shall elect one delegate; the County of Monterey shall elect one delegate; the County of San Benito shall elect one delegate; the County of Santa Clara shall elect five delegates; the City and County of San Francisco shall elect at large thirty delegates; the City and County of San Francisco at large, jointly with the County of San Mateo, shall elect one delegate; the County of San Mateo shall elect one delegate; the County of Alameda shall elect five delegates; the Counties of Contra Costa and Marin shall jointly elect one delegate; the County of Contra Costa shall elect one delegate; the County of Marin shall elect one delegate; the Counties of San Joaquin and Amador shall jointly elect one delegate; the County of San Joaquin shall elect four delegates; the County of Amador shall elect two delegates; the Counties of Tuolumne and Calaveras shall jointly elect one delegate; the County of Tuol-

umne shall elect one delegate; the County of Calaveras shall elect one delegate; the County of Sacramento shall elect five delegates; the Counties of Solano and Yolo shall jointly elect one delegate; the County of Solano shall elect three delegates; the County of Yolo shall elect one delegate; the Counties of Napa, Lake, and Sonoma shall jointly elect one delegate; the County of Napa shall elect one delegate; the County of Lake shall elect one delegate; the County of Sonoma shall elect four delegates; the County of Placer shall elect two delegates; the Counties of El Dorado and Alpine shall jointly elect two delegates; the County of El Dorado shall elect one delegate; the Counties of Nevada and Sierra shall jointly elect one delegate; the County of Nevada shall elect four delegates; the County of Sierra shall elect one delegate; the Counties of Yuba and Sutter shall jointly elect one delegate; the County of Yuba shall elect two delegates; the County of Sutter shall elect one delegate; the Counties of Butte, Plumas, and Lassen shall jointly elect one delegate; the Counties of Plumas and Lassen shall jointly elect one delegate; the County of Butte shall elect two delegates; the Counties of Mendocino, Humboldt, and Del Norte shall jointly elect one delegate; the County of Humboldt shall elect one delegate; the County of Mendocino shall elect one delegate; the County of Del Norte shall elect one delegate; the Counties of Siskiyou Modoc, Trinity, and Shasta shall jointly elect one delegate; the Counties of Siskiyou and Modoc shall jointly elect one delegate; the Counties of Trinity and Shasta shall jointly elect one delegate; the County of Tehama shall elect one delegate; the County of Colusa shall elect one delegate; and thirty-two (32) delegates shall be elected by the State at large, eight (8) residents of each congressional district.

Who entitled to vote.

SEC. 8. All persons entitled by law to vote for members of assembly shall be entitled to vote at such election in their respective election districts, and not elsewhere. Such election shall be by ballot.

Regulations.

SEC. 4. The following regulations shall apply to the aforesaid election, to be held on the third Wednesday in June, A. D. eighteen hundred and seventy-eight.

First—The said election shall be held and conducted by the proper election officers of the several election districts of this State, and shall be governed and regulated in all respects by the general election laws of the State in force at the time of said election, so far as the same shall be applicable thereto, and not inconsistent with the provisions of this act.

Second—At the special election to be held under this act, if no other provision for printing and using new great registers or ward registers shall have in the mean time been made by law, the copies of the great registers which were used in the several counties of this State at the general election held in the year eighteen hundred and seventy-seven shall be used. The boards of supervisors must furnish the boards of election of each precinct in their respective counties, before the day on which said special election is appointed to be held, at least one copy of the aforesaid printed great register. If the boards of supervisors can not otherwise obtain a sufficient number of copies of the register for the purpose, it must take the copies filed in the office of the county clerk, in pursuance of section one thousand two hundred and sixty-eight of the Political Code. If the copy of the register which shall be furnished to any precinct shall have been used at a previous election, the character "X" may be used instead of the word "yoted," as required by section one thousand two

hundred and twenty-eight of the Political Code. It shall not be the duty of the boards of election to post copies of the great register, as required by section one thousand one hundred and forty-nine of the Political Code. The voter, when he offers his ballot at a polling place, shall not be required to announce his number on the great register, as provided for in section one thousand two hundred and twenty-five of the Political Code.

Third—The officers of the several counties of this State, whose duty it is under the law to receive and canvass the returns from the several precincts of their respective counties, as well as the City and County of San Francisco, shall meet at the usual place of meeting for such purpose on the second Monday after said election. If at the time of meeting the returns from each precinct in the county in which polls were opened have been received, the board must then and there proceed to canvass the returns; but if all returns have not been received, the canvass must be postponed from day to day until all of the returns are received, or until six postponements have been had, when they shall proceed to make out returns of the votes cast for delegates to be members of the convention; and the proceedings of the officers whose duty it is to make out said returns shall be the same as those prescribed for like officers in the case of an election for governor, except that the returns shall be transmitted to the secretary of State. The persons receiving the highest number of votes at such election shall be elected, except in the case of persons voted for as delegates at large. Of the persons so voted for as delegates at large, the eight persons, residents of any one congressional district, who shall have received a plurality of votes over all other persons, severally, who reside in the same congressional district, shall be declared elected such delegates at large.

Fourth—The secretary of State shall, as soon as the returns of said election shall be received by him, or within twenty days after said election, in the presence of the governor and controller of State, open and compute all of the returns received of votes given for members of the convention, and the governor shall forthwith issue his proclamation, declaring the names of the persons who have been chosen members of said convention.

Meeting of convention—Officers—Attachés.

SEC. 5. The delegates so chosen shall meet in convention in the assembly chamber at the capitol, in the City of Sacramento, on the twenty-eighth of September, eighteen hundred and seventy-eight, at twelve o'clock m. They shall, by a viva voce vote, and the vote shall be entered on the journal, elect one of their number president, and such secretaries and other officers as they may deem necessary. After the said convention has met and organized, it shall have power to adjourn to and hold its meetings at any place in said City of Sacramento other than the said assembly chamber, and all committee rooms of the State capitol building shall be under the control of said convention. The president of the convention may appoint not exceeding one doorkeeper and four pages. The convention may select phonographic reporters, and fix the amount of their compensation; also, a sergeant-at-arms and one assistant. The delegates to the convention shall receive the same per diem and mileage as members of the legislature; provided, no compensation shall be allowed delegates after the expiration of one hundred days. No pay shall be allowed for any recess longer than three days at one time. The secretary shall receive eight dollars per day, and his assistants each six dollars per day, and the doorkeepers, pages, sergeant-at-arms, and assistants, shall receive the same compensation as provided by law for similar services and attendance upon the

assembly. The amount of pay shall be certified by the president of the convention, and shall be paid by the treasurer of State, on the warrant of the controller, in the same manner as members of the legislature are paid. It shall be the duty of the governor to attend said convention at the opening thereof, and to administer the constitutional oath of office to the delegates, and to preside at all meetings thereof until a president has been elected and taken his seat, but the governor shall have neither the casting vote nor any other vote therein. The secretary of State shall also attend at the opening of the convention and call the roll of delegates. All public officers, boards, and commissions shall furnish such convention with all such information, papers, statements, books, or other public documents in their possession as the said convention shall order or require for its use from time to time while in session. It shall be the duty of the secretary of State to furnish the members of said convention with stationery to the amount provided by law for the legislature while in session, and to the convention such stationery, manual, file boards, and other like things as are furnished to the two houses of the legislature. Said convention may adopt such rules and regulations for its own government as a majority of its members may determine, and said convention shall be the judge of the election and qualification of its own members.

Privileges of delegates—Power to punish certain offenses.

SEC. 6. A journal of the proceedings of the said convention shall be kept, and shall, at the final adjournment thereof, be filed in the office of the secretary of State, and the constitution agreed to by the convention shall be recorded in his office. A majority of the convention shall constitute a quorum to do business. The doors of the convention shall be kept open, except when the public welfare shall require secrecy. Every delegate to the convention shall have the like privileges from arrest and from civil process as members of the legislature now have by law. For any speech or debate in the convention, the delegates shall not be questioned in any other place. The convention shall have the power to expel any of its members, and to punish its members and officers for disorderly behavior, by imprisonment or otherwise; but no member shall be expelled until the report of a committee appointed to inquire into the facts alleged as the ground of his expulsion shall have been made. The convention shall have the power to punish as a contempt, and by imprisonment or otherwise, a breach of his privileges, or of the privileges of its members, but such power shall not be exercised except against persons guilty of one or more of the following offenses:

First—The offense of arresting or subjecting a member or officer of the convention to civil process in violation of his privilege from arrest as heretofore declared.

Second—That of disorderly conduct in the immediate view and presence of the convention, and directly tending to interrupt its proceedings.

Third—That of publishing any false and malicious report of the proceedings of the convention, or of the conduct of a member in his delegated capacity.

Fourth—That of refusing to attend, or be examined as a witness, either before the convention or a committee to take testimony in the proceedings of the convention.

Fifth—That of giving or offering a bribe to a member, or of attempting by menace or any other corrupt means or device, directly or indirectly, to control or influence a member in giving his vote, or to prevent him from giving the same.

In all cases in which the convention shall punish any of its members, or officers, or any other person, by imprisonment, such imprisonment shall not extend beyond the session of the convention. Every person appointed to the office of secretary of the convention shall, before he enters on the duties of his office, execute a bond to the people of the State, with such security as the controller shall approve, in the penal sum of five thousand dollars, conditioned that he shall faithfully perform the duties of his office and account for all moneys which may come into his hands by virtue thereof.

Constitution to be submitted to people.

SEC. 7. The constitution framed by such convention shall be submitted by the convention to the people for their adoption or rejection at a special election to be held on the first Wednesday of May, eighteen hundred and seventy-nine, and every person hereby entitled to vote for delegates may vote at that election, on such adoption or rejection, in the election district in which he shall then reside, and not elsewhere. The said convention shall be voted on as a whole. No other question than the adoption or rejection of the proposed constitution shall be submitted to the people or voted on at such election, any statute or law to the contrary notwithstanding. The convention shall prescribe the publication of said constitution, and the notice to be given of the election. The ballots or tickets shall have printed or written upon them the words "For the New Constitution," or "Against the New Constitution," and all the provisions of law now or at that time existing in regard to general elections shall be applicable to such election, except that the provisions of the first and second subdivisions of section four of this act shall also apply to said election. The canvassing and returns of the votes cast upon such question shall, in such manner as the convention shall direct, be certified to the executive of the State, who shall call to his assistance the controller, treasurer, and secretary of State, and compare the votes as certified to him. If, by such an examination, it is ascertained that a majority of the whole number of votes cast at such election be in favor of such new constitution, the executive of this State shall, by his proclamation, declare such new constitution to be the constitution of the State of California, and that it will take effect at such time as the said convention may have in its discretion, by resolution, or in said constitution itself, fixed. If said convention fix no time for said constitution to take effect, then it shall take effect immediately upon such proclamation being made.

Perjury.

SEC. 8. All willful and corrupt false swearing in taking any of the oaths prescribed by this act, or by the laws of this State made applicable to this act, or in any other mode or form in carrying into effect this act, shall be deemed perjury, and shall be punished in the manner now prescribed by law for willful and corrupt perjury.

Secretary of State to publish this act.

SEC. 9. It shall be the duty of the secretary of State to cause this act to be published once a month after its passage, until the election of delegates herein provided, in not more than five of the public newspapers published in this State—one of said publications to be in some newspaper published in the City and County of San Francisco, and one in the City of Sacramento, one in the County of Los Angeles, and one in the County of Nevada, and one in the County of Tulare; and the expense of publishing the same, and all other legal

expenses incurred in printing for the convention, shall be audited by the controller and paid by the State treasurer according to law.

Printing.

SEC. 10. All the printing necessary for the said convention, under the provisions of this act, shall be done and performed at the State printing office.

Vacancy, how filled.

SEC. 11. In case any vacancy occurs by reason of the death, resignation, or otherwise, of any delegate elected to said convention, the same shall be filled by the convention.

Appropriation authorized.

SEC. 12. The sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the State treasury to pay the expenses of the convention provided for in this act.

SEC. 13. This act shall take effect immediately.

An Act to provide for the publication of the debates and proceedings of the constitutional convention of the State of California.

Approved March, 31, 1880; 1880, 17 (Ban. ed. 60).

[This act authorized the transcription of the short-hand notes of the reporters of the constitutional convention at a cost not to exceed \$18,000, and the printing of such a number of copies of the reports as the State board of examiners might deem advisable, at a cost not to exceed \$18,000. It also provided for the distribution of a certain number of such copies, and for the sale of the remainder at a sum not to exceed \$15 per set.]

Contra Costa County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,118.

Providing for distribution of school moneys, 1877-8, 182.	To prevent destruction of deer on Mount Diablo, 1877-8, 599.
Fixing fees of justices of the peace, 1877-8, 269.	Amending act of March 11, 1876, concerning roads and highways, 1877-8, 611.
Legalizing tax for school house in New York School District, 1877-8, 283.	For extermination of squirrels, 1877-8, 815.
Amending incorporation act of Town of Martinez, 1877-8, 297.	Repealing "West Side Irrigation District" acts of 1876, 1877-8, 887.

Del Norte County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,142.

Fixing terms of county and probate courts, 1877-8, 1.	In relation to road, poll, and property tax in Crescent City, 1877-8, 204.
Fixing bonds of county treasurer, 1877-8, 2.	To declare Klamath River navigable, 1880, 136 (Ban. ed. 402).
Repealing act for destruction of certain wild animals, 1877-8, 2.	
To declare Smith River navigable, 1877-8, 799.	

Donations to State, County, City, or Town.

An Act to provide for the receipt and appropriation of donations to the State, or counties, or cities and counties, or cities or towns therein.

Approved April 3, 1880; 1880, 20 (Ban. ed. 106).

15,143. *Donations of money to State, etc.*

SECTION 1. Whenever any individual or corporation shall donate to the State, or to either of the counties, or cities and counties, or cities or towns, of this State, any money, the State treasurer, and the treasurer of such county, city and county, or city or town, is hereby authorized to receive the same, and, in case the individual or corporation making the same shall designate, at the time of making such donation, in writing, the fund he desires to benefit thereby, the

said donation shall be appropriated accordingly; but in case no such designation be made, then all such donations shall be paid into the common school fund.

SEC. 2. This act shall be in force from and after its passage.

Drainage.

An Act entitled an act to provide for the protection of lands from overflow other than lands recognized as swamp lands.

Approved April 15, 1880; 1880, 55 (Ban. ed. 227).

15,144. *Protection district, how organized—Boundaries.*

SECTION 1. Whenever the owners of any land other than lands recognized as swamp lands susceptible of protection from overflow, shall wish to have the same organized into a protection district, they shall present a petition, signed by the owners of more than one half the acres of such land, to the board of supervisors of the county in which the larger portion of such land may be situated. Said petition shall define the boundaries of the proposed district, and as nearly as practicable shall state the number of acres and town or city lots included therein, and that no part of the same is included in any other protection or reclamation district, together with the names of the owners thereof, and ask the same to be set apart and erected into a protection district under the provisions hereinafter contained. Should a town or city be included in any such district, each lot of less than an acre in such town or city shall be deemed equivalent to an acre for the purposes of this petition.

Publication.

SEC. 2. Upon the receipt of the petition contemplated in section one of this act, the board of supervisors shall order such petition published in some newspaper printed in the county in which the larger portion of the district may be situated, and if there be no newspaper published in such county, then in some newspaper having a general circulation in the proposed district, for thirty days prior to any further action being taken. They shall also fix a day for the hearing of such petition, and publish the same in connection with the petition, notifying all persons interested of such proposed action.

Hearing—Election.

SEC. 3. Upon the day appointed for the hearing of said petition, the board of supervisors shall consider the same, and should they find that any lands are improperly included in or excluded from the proposed district, they shall make, upon satisfactory evidence of such fact, such changes in the proposed boundaries as may by them be deemed just and proper. Should the board of supervisors make any changes in said boundaries, they shall note the same on the petition, and organize or reject the district with the boundaries they have fixed, and their action in that respect shall be conclusive; such action shall be entered in the journal of their proceedings, together with the petition, the names of the signers thereto, and the evidence of publication. If the board shall order a district to be organized, they shall, in such order, direct an election to be held within the boundaries thereof, and within twenty days from the date of such order, for three trustees, who must be resident land owners of the district, one of whom shall be elected for one year, one for two years, and one for three years; and there shall be an annual election held each year thereafter, at which one trustee shall be elected for three years. At the time of ordering the election for trustees, the board of supervisors shall appoint one inspector

and two judges of said election, in each voting precinct in the district, who, upon the day appointed, shall keep correct account of the number of acres voting, and for whom, and report the result of the same to the said board of supervisors at their next meeting, who shall order the clerk to notify the persons so elected of their election. No one shall be permitted to vote at such election, unless he is a land owner of the district; and in voting, each voter shall be entitled to cast one vote for each acre, and for each town and city lot, the title to which is shown by the records of the county in which the district is situated, to be in him.

Trustees, organization—Powers.

SEC. 4. Within twenty days after being notified of their election, the persons so elected shall meet and organize a board of trustees by the election from their number of a chairman and secretary, and enter upon the discharge of their duties. When organized as aforesaid, the board of trustees shall have power to acquire, by donation or purchase, any real or personal property needed for the district, and hold the same for the uses of such district, and, when necessary, may exercise the right of eminent domain, as provided by law. They shall have charge of all works of protection, and superintend the construction or repair of the same, and shall have power to do all other acts necessary for the accomplishment of the objects for which such district was organized. They shall provide proper books, in which they shall keep a correct record of all their proceedings, which shall be kept at some place within the district, and shall be subject to inspection by all persons during business hours. They may employ competent engineers, and shall proceed to survey, mark out, and locate the necessary works of protection for their district, and provide plans and specifications for the same, and estimates of costs of construction, and submit the same to the board of supervisors by whom the district was formed, for their approval, modification, or rejection.

Commissioners, duties of.

SEC. 5. Upon the adoption of a plan of protection, said board of supervisors shall appoint three disinterested persons, residing in any county in which some part of the district is situated, as commissioners, who shall, on being notified, in writing, of their appointment by the clerk of such board of supervisors, proceed to view each forty-acre tract or fraction thereof, and each town lot or parcel of land within the district, and levy and fix against each such sum for protection purposes in proportion to the whole expense and to the benefits to be derived from such proposed works of protection, in gold coin of the United States, and report to said board of supervisors as follows:

First—A description by the smallest legal subdivisions or natural boundaries of each tract, and number and block of each town lot in the district.

Second—The number of acres in each tract or parcel of land, and the size of each town lot.

Third—The names of the owners of each tract or lot, if known; and if not, as unknown.

Fourth—The sum levied or fixed against each tract, parcel of land, or town lot.

Said commissioners shall be entitled to receive a sum not to exceed five dollars per day each while performing said duties, to be paid out of the proper protection fund.

Report of commissioners.

SEC. 6. Upon the filing of the report of the commissioners, as aforesaid, with

the clerk of the board of supervisors, said board shall give notice, in some newspaper printed in the county, that they will, upon a day named in such notice, which day shall not be less than five days from the date of publication, meet and review, correct, and adopt said report; and upon the day thus fixed, the board of supervisors shall meet, review, correct, and adopt said report; and their decisions in the premises shall be final. The sums thus fixed against each tract, parcel of land, or town lot, in said report as adopted, shall be the basis of all assessments within the district for a term of ten years thereafter, unless legally changed as hereinafter provided. The words, tract or parcel of land, shall include all railroad beds within the district.

Assessments.

SEC. 7. The board of trustees of any protection district formed under this act, shall have power to levy assessments on or against each tract or parcel of land or town lot in the approved report of the commissioners for such district. On making such assessment, said trustees shall make a list of the sums assessed against each tract or parcel of land or town lot in the district, and file the same with the county treasurer of the county in which the district was organized; and from and after the filing thereof, the charges against any tract or parcel of land or town lot contained therein shall become a lien thereon; provided, that if any such land be situated in different counties, the trustees shall cause the same to be filed in each county where the land is situated.

Assessed list filed with county treasurer.

SEC. 8. The list thus prepared and filed with the county treasurer shall remain in his office for thirty days, or longer if so ordered by the board of trustees; and during the time it may so remain, any person may pay the charges assessed against any tract, parcel of land, or town lot, to the treasurer, in United States gold coin, or warrants of the district, drawn by order of the trustees and signed by the auditor of the county. If in warrants, such warrants must be at once canceled by the treasurer.

Treasurer to publish notice of filing.

SEC. 9. Upon the filing of said list with the county treasurer, he shall give notice, by publication in a newspaper printed in the county, that the assessment list of District No. — has been filed in his office, with the date of filing; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent, and will be turned over to the tax collector of the county for collection. He shall note on said lists all assessments paid, and shall, on the day above named, turn said list over to the tax collector of the county, who shall proceed to collect such delinquent assessments, with five per cent. added thereon, and pay the same, including the five per cent. so collected, over to the county treasurer, in the same manner as State and county taxes are collected and paid over. All moneys paid into the county treasury for protection purposes, for any district organized under this act, including said five per cent., shall be placed by the treasurer to the credit of such district, and shall be paid out only for the benefit of such district, upon warrants drawn according to law.

Money, how paid.

SEC. 10. No money shall be paid out of any funds belonging to any protection district contemplated in this act, except upon the order of the board of the particular district, and upon warrants signed by the county auditor; said war-

rants, in order to draw interest, must be presented to the county treasurer and by him registered, and they shall bear interest from the date of such registration, and shall be paid in the order of their registration.

Compensation of treasurer, auditor, and tax collector.

SEC. 11. The county treasurer shall be entitled to receive one per cent. of the amount received by him for assessments paid under this act, and the auditor and tax collector such sums as may be allowed by law for such services, to be paid out of the funds of the district as other claims against the same are paid. The district attorney is hereby required, when called upon, to act as legal adviser of all boards of trustees in his county, without compensation other than his regular salary.

Effect of act.

SEC. 12. Nothing in this act affects the provisions of any statute in relation to levee districts now in force; but whenever any levee district formed under such statute desires to reorganize under this act, or whenever any such statute is repealed, or becomes null and void, in either event a levee district may bring itself within the provisions of this act by its trustees notifying, in writing, the board of supervisors that they have elected so to do. In all such cases the original district officers shall continue in office until the new organization is perfected. When so perfected, the trustees thereof shall be deemed the successors and legal representatives of the district so reorganized and consolidated; provided, that when a levee district is without trustees, the same may be placed under and within the provisions of this act by said board of supervisors, whenever there shall be presented to them a petition signed by persons holding a majority of the acres in said district asking to be so placed; provided, also, that any such reorganization shall in no manner impair any obligation heretofore legally incurred by such reorganized levee district.

Districts endangered by overflow.

SEC. 13. Should any protection district, formed or organized under this act, be endangered by overflow from any lands lying contiguous thereto, not embraced in any other district, the trustees of the district so endangered may petition the board of supervisors of the county in which the endangered district is situated, stating the cause of danger, and asking that such changes be made in the exterior boundaries of such endangered district as will enable it to protect itself from the actual or threatened injury. Notice of such petition shall be given as required in this act for the formation of districts, and upon a showing satisfactory to said board of supervisors, they shall make such order in the premises as may seem to them just and proper. Should said board grant such a petition, in whole or in part, they shall make such changes as they may deem necessary; and if, in doing so, they make an addition of territory to the endangered district, the added territory shall become an integral part of said district, and the board shall appoint three commissioners to fix a basis of assessment, as provided in section five of this act. When the levees of a protection district, formed under this or other acts, are insufficient to protect such district from overflow, and thereby endanger the land embraced in a contiguous district, the trustees of the endangered district may present a petition to the board of supervisors setting forth the fact, and showing in what manner such insufficient levees or works endanger the district represented by the petitioners, and asking that the trustees of the former district be required to perfect its levees so as to abate the threatened danger. Upon the filing of such petition with the

clerk of the board, said clerk shall notify, in writing, the trustees of the district complained of; the notice must set out the substance of the petition, and the relief asked for, and must require said trustee to show cause, on the day therein named, which shall not be less than thirty days from the date of the service to said board, why the petition should not be granted. If there be no trustees, then such notice shall be published not less than thirty days before the day of hearing the same, in the manner herein provided for the publication of notice for the formation of a district. If, at the hearing of said petition, the matter and things therein contained shall be proven to the satisfaction of the board, and they shall also be satisfied that the petitioners are entitled to the relief prayed for, they shall, if there are trustees of a district complained of, require them, by an order entered on the minutes of the board of supervisors, to perfect the levees of their district as aforesaid. A copy of such order shall be served on at least two of said trustees, and if such trustees shall fail to obey such order, for the space of six months from the day they have notice thereof, said board are hereby empowered to execute said order by proceeding to perfect said levees, and for that purpose shall have all the powers which are conferred by this act upon the boards of trustees of protection districts. If there be no trustees of the district complained of, the board of supervisors are hereby made ex officio trustees thereof, with all the powers possessed by virtue of this act by the district trustees of each protection district, and shall retain such power until trustees are elected for such district in the manner in this act provided.

Appointment of new commissioners.

SEC. 15. The supervisors of any county in which the greater portion of any protection district, organized under this act, is situated, shall, upon the presentation of a petition to them, signed by the owners of a majority of the acres in such district, asking for the appointment of a new commission to review and change the basis of assessment in such district, appoint such new commission, which shall be governed by section five of this act.

Compensation of trustees.

SEC. 16. The trustees of any district, organized by authority of this act, shall be entitled to receive each, for their services while actually employed in the business of the district, a sum not exceeding three dollars per day, to be paid out of the funds of their particular district.

SEC. 17. This act shall take effect immediately.

An Act to provide a system of irrigation, promote rapid drainage, and improve the navigation of the Sacramento and San Joaquin Rivers.

Approved March 29, 1878; 1877-8, 634.

State engineer, office created.

SECTION 1. The office of State engineer is hereby created, which shall, before the first day of May, eighteen hundred and seventy-eight (1878), be filled by appointment by the governor of the State, for a term of two years.

Compensation.

SEC. 2. The compensation of the State engineer shall be six thousand dollars per year.

Duty of engineer.

SEC. 3. The duty of the State engineer shall be, under the direction of the governor, to investigate the problems of irrigation of the plains, the condition

and capacity of the great drainage lines of the State, and the improvement of the navigation of rivers.

What to be ascertained by State engineer.

SEC. 4. In order to carry out the purpose specified in section three, it shall be required of the State engineer to ascertain as nearly as possible the following named facts, and to express opinions as is hereby required:

First—To ascertain the present water-carrying capacity of the Sacramento and San Joaquin rivers, in the different sections which are liable to overflow.

Second—Whether the carrying capacity can be increased, and if so, by what means, and at what cost.

Third—The maximum quantity of water which may reasonably be expected to present itself, on any day, at the head of any of the sections of the rivers as before mentioned.

Fourth—Whether it is possible to make the rivers carry the maximum quantity thus ascertained, and if not, to suggest such other measures as may be judicious for the relief of the rivers and the protection of adjoining lands, and to give detailed estimates of the cost of the suggested works.

Fifth—To ascertain whether there has been any change in the height of beds of the navigable rivers of the State, and if so, to determine as nearly as may be the extent of this change, and the cause or causes to which it is due, and whether change is now taking place in the height of the beds of the rivers, and if so, what legislation, if any, will be effectual in preventing the rise of the beds, or in diminishing the rate of rise.

Sixth—To ascertain the effect of any change in the bottom of the rivers, or the carrying capacity, and the height of floods in the rivers.

Seventh—To ascertain the position and acreage of all lands in the valleys of the State, which are now or may be in the future in need of irrigation; to divide these lands into their natural districts; to ascertain the water source or sources from which each district may be most conveniently irrigated; to ascertain the quantity of water which these sources can supply in different years for irrigation; the length of time in each year during which these sources will supply sufficient water for irrigation; make studies of the best means for irrigating each district, and give his opinion and advice to such parties as may be engaged in irrigating a district, or who may be about to undertake the irrigation of a district, and for this advice no compensation shall be received from the parties to whom the advice is given.

Eighth—The State engineer shall also inquire into the relation which hydraulic mining bears to the navigation of the rivers, and to their carrying capacity; to inquire into the question of the flow of debris from the mines into the water-courses of the State; to ascertain the amount and value of agriculture lands and improvements which have been covered up or injured by the overflow or deposit of debris, coming from the hydraulic and other mines in the Sacramento Valley, and to devise a plan whereby the injuries caused thereby can be averted without interfering with the working of such mines.

Ninth—In addition to making these inquiries, the State engineer shall make such other investigations as may appear to him to be necessary, and approved by the governor, for the proper and complete solution of the problem stated in section three.

Tenth—Inasmuch as these inquiries involve a broad and scientific treatment of the physical facts of the water system of the State, and as their study may properly be divided, the governor is authorized to employ, for the purpose of

advising and assisting the State engineer, two consulting engineers, acquainted with hydraulic engineering, and of good standing in their profession, who shall receive not exceeding three thousand dollars a year each, and who shall join with the State engineer in making his final report.

Eleventh—In addition to the compensation herein stated, the engineers shall be entitled to their actual reasonable expenses of travel while engaged on the duties prescribed by this act.

Twelfth—The State engineer shall make monthly reports, at the close of each calendar month, of the operations of his office in the preceding month, and shall therein mention the operations contemplated in the next ensuing month. On the first of October of each year he shall make to the governor an annual report of operations during the past year.

Thirteenth—The governor is authorized to appoint a secretary, who shall keep the records of the office of the State engineer, and who shall, under the direction of the engineer, and subject to such regulations as the controller of State shall establish, make the disbursements required by this act. The secretary shall be required to give bonds for the faithful disbursements of the money, in the sum of ten thousand dollars, and shall receive a compensation of twenty-four hundred dollars per annum.

Fourteenth—The State engineer may employ such assistants in the execution of his duties as may from time to time be required, the number of persons and the rates of compensation being approved by the governor.

Fifteenth—The office of State engineer shall be in the State capitol building.

Sixteenth—For the purposes of this act, the sum of one hundred thousand dollars, or so much of it as may be necessary to cover the expenses of the operations of two years, beginning May first, eighteen hundred and seventy-eight (1878), is hereby appropriated.

Seventeenth—On January first, eighteen hundred and eighty (1880), the State engineer shall report to the legislature a full statement and history of his operations up to that date, the condition of the inquiry, the important facts that have been ascertained, either accurately or approximately, and the deductions or recommendations which have been justified by the inquiry in regard to the principles which ought to govern in the irrigation of lands, and in relief of the rivers when in flood, with such practical recommendations as he may see fit.

SEC. 5. This act shall be in force from and after its passage.

An Act to promote drainage.

Approved April 23, 1880; 1880, 123 (Ban. ed. 389).

15,145. *Board of drainage commissioners.*

SECTION 1. The governor, surveyor-general, and State engineer shall be ex officio members of and constitute a board of drainage commissioners to divide the State into several drainage districts, and organize the same as hereinafter provided. The governor shall be president of the board, and the office of the board shall be in the State engineer's office at the State capitol. The secretary to the State engineer shall be secretary of the board.

Report of State engineer.

SEC. 2. Within thirty days after the passage of this act, or as soon thereafter as may be practicable, the State engineer shall submit to said board a report or reports containing the result of his investigations as to drainage, having in view the control of debris from mining and other operations, the improvement and rectification of river channels, the erection of embankments or dykes

necessary for the protection of lands, towns, or cities from inundation. He shall also make special examinations with reference to the division of the State into several drainage districts, each of which shall include a territory drained by one natural system of drainage, and shall report to the board of drainage commissioners the result of his examinations, and shall from time to time propose boundaries for such districts and recommend their formation.

Board to consider the report.

SEC. 3. After the State engineer has reported the boundaries and recommended the formation of one or more drainage districts, the board shall proceed to consider the same, and may adopt, amend, or reject said report; but if adopted by them, either in the original form or amended, they shall, by resolution entered upon the record of their proceedings, declare the said territory to be, and the same shall thereupon become a drainage district, and shall be known as Drainage District Number One, Two, or Three, etc., as the case may be, numbering the districts in the order in which they are formed; and they shall record, in a book to be kept for that purpose, the boundaries, which shall be clearly defined, with map accompanying, of each separate district, its number, and date of its formation, and shall file for record with the recorder of each county embraced, or in part embraced in the district, a copy of the same, which shall be deemed sufficient notice of the formation of said district to all county officers, and to all parties concerned, that the said district has been formed.

Board of directors—Term—Bond—Report.

SEC. 4. Within ten days after the organization of any drainage district, the governor shall appoint three persons, residents of the district, who shall constitute a board of directors for the district so formed. They shall hold office for four years [unless sooner removed for cause by the governor], and until their successors are appointed and qualified. They shall organize by electing one of their number president, and shall take the usual oath of office; and shall each give a bond in the sum of twenty-five thousand dollars for the faithful performance of his duties, to be approved by some superior judge of the district, and filed with the board of drainage commissioners. They shall, on or before the first day of January of each year, report to the governor all their proceedings, showing the amount of work done, and amount of money they have expended. The governor shall transmit the same to the legislature.

Secretary—Assistant engineer.

SEC. 5. The board of directors shall appoint a secretary, and have an office in the district. The secretary shall receive a salary to be fixed by the directors, not exceeding one hundred dollars per month, payable out of the construction fund of the district; and his term of office shall be at the pleasure of the board of directors of such district. (They shall also appoint an assistant engineer, who shall be styled resident engineer, and whose duties are hereinafter stated.)

Vacancies—Salary.

SEC. 6. The governor shall fill all vacancies that may occur in the board of directors, and each director shall receive a salary of one hundred dollars per month, payable monthly out of the construction fund of the district.

Specifications, plans, etc.

SEC. 7. After the formation of any territory into a drainage district, the State engineer, as soon as practicable after proper surveys have been made, shall submit to the board of directors of the district, plans, specifications, and esti-

mates of the cost of the works necessary in said district, in order to secure a proper system of drainage therefor. The report shall be accompanied by the concurring or dissenting opinion of the consulting engineer.

Board of directors may adopt, etc.

SEC. 8. After the report of the State engineer, as aforesaid, giving plans, specifications, and estimates of the cost of the works, or any modifications or changes thereof, are made to the board of directors of the district; the board shall adopt, amend, or reject the whole or any portion of such plans, or may refer them back to the State engineer for further report.

Bids.

SEC. 9. After the adoption of the plans and specifications of the work to be done in the district, the board of directors shall advertise for thirty days, in three newspapers of general circulation published therein, for bids for the construction of all or any portion of the works embraced in said plans; the said notice shall state that the plans and specifications of said works are on file in the office of the board of directors of the district, and can there be examined by any person who may so desire; and shall also state that it will be unlawful for any contractor to employ any Chinese or Mongolians in the construction of such works, and state generally the terms and time in which the work shall be constructed, and that the right to reject any and all bids is reserved by said board; and no material used in the construction of such works shall be purchased from any contractor or manufacturer who either directly or indirectly employs any Chinese or Mongolian labor.

Contracts.

SEC. 10. All contracts shall be awarded to the lowest responsible bidder (if his bid is not deemed by the board too high), and the contractor shall give a good and sufficient bond in not less than twenty-five per cent. of the estimated cost of the work contracted for; the bond, both as to its amount and the sureties thereon, shall be subject to the approval of the board of directors of the district, and when so approved, shall be filed in the office of said board. Any members of the board of drainage commissioners, or the State engineer, or consulting or resident engineer, or any superintendent of said works, or any employe of the board of drainage commissioners, any member of the board of directors of any drainage district, or any employe thereof, or of the State engineer's department, who shall be interested in any contract for the construction of any such works in any drainage district, shall be guilty of a felony. If, however, any emergency shall arise rendering it necessary, in the judgment of said board of directors, concurred in by the State board of drainage commissioners, for the protection of works already completed, that immediate repairs or work should be done, the said directors shall have the power to do such work or repairs in the manner which to them seems most advisable.

Condemnation.

SEC. 11. The board of directors of the district may condemn the right of way for any work necessary for the purpose of the drainage of the district; may purchase or condemn material necessary for the work; may join, connect with, enlarge, or strengthen any works already constructed, and may condemn such lands as may be by them deemed necessary for reservoirs for storing debris from the mines, whether the same be within or without the boundaries of the district, and may provide for connecting the system of drainage of one district with that of another, or for several districts; and it is hereby declared that the

use of the property, such as right of way and lands which may be condemned, taken, or appropriated under the provisions of this act, is a public use, and that such appropriation is for the public benefit; (provided, that they shall not have the right or power to purchase or condemn any levee or levees.)

Same.

SEC. 12. Whenever the board of directors of any district can not procure from the owner or owners thereof, without purchase, the right of way or material needed for the construction of levees or reservoirs (for the storage of debris), or procure the consent to join or connect with any existing works, or procure lands necessary for the construction and the completion of the system or plan adopted, the said board of directors may, in the name of the district, proceed to condemn the same under the provisions of title seven, part three, of the Code of Civil Procedure, and amendments thereto, which are now existing or may hereafter be made; provided, that cities and towns having levees shall have and retain the exclusive management and control thereof, subject to the right of the district to connect therewith as herein provided.

State engineer to have charge—Resident engineer.

SEC. 13. All works carried on under the provisions of this act shall be executed under the direction of the State engineer (who shall be appointed by the governor), and an assistant for each drainage district, who shall be styled resident engineer, and whose salary shall be fixed by the board of directors of the district, but shall not exceed two hundred dollars per month for each month of actual service. All work shall be done under the immediate supervision of the resident engineer and board of directors of the district, and no work shall be paid for until accepted by such resident engineer and board of directors, and approved by the State engineer.

Construction fund.

SEC. 14. The costs of the works contemplated in this act, embracing all contracts, purchases, or condemnations of property authorized under it, and all proper salaries and incidental expenses, shall be paid out of the "Construction Fund" of the drainage district for which such works may be constructed. Proper vouchers, in duplicate, for all such expenditures, shall be certified to by the resident engineer of the district, approved by the State engineer, and submitted to the board of directors at their regular meetings, who shall thereupon audit and allow all just and proper claims, and certify the original voucher for the same to the State controller. The controller shall thereupon draw his warrant upon the State treasurer for the amount thus certified, payable out of the "Construction Fund" of the proper district, or out of the "State Construction Fund," as the case may be. The provisions of law requiring claims to be approved by the State board of examiners, before a warrant shall be drawn by the controller therefor, shall not be applicable to claims presented under the provisions of this act.

Funds, how provided.

SEC. 15. To provide funds to pay the construction of the systems of works contemplated by this act, and all expenses connected therewith, the assessors of the several counties embraced in whole or in part in any drainage district shall be ex officio assessors of the district for the portion of said district included in their respective counties; and each such assessor shall annually assess and make a duplicate assessment book of all property in that portion of the county of which he is assessor, embraced within such drainage district, and

shall deliver the said duplicate assessment book at the same time and in the same manner and to the same officer or board that he delivers the assessment book made for purposes of State and county taxation; and the assessment so made shall be equalized at the same time and by the same officers or boards as assessments made for State and county taxes are equalized. The said duplicate assessment book shall be treated in all respects by the several State and county officers the same as the assessment book made for State and county purposes. When the said assessment has been finally equalized by the proper authority, as hereinbefore provided, it shall be the duty of the auditor of the county, in whole or in part embraced in any drainage district, on or before the first day of October of each year, to forward by mail or express, to the board of directors of such district, at their office, a statement showing the total value of all property embraced in said duplicate assessment book, after the same has been finally equalized, as before stated.

Tax levy.

SEC. 16. The board of directors of each drainage district must, on some day in the month of October of each year, levy a tax upon all the property in the district, of one-twentieth of one per cent. on the value of said property. Immediately after the levy of said tax, the board of directors levying the same shall at once notify the auditor of each county in which any portion of any drainage district is embraced, of the tax and rate so levied; and each of said auditors shall compute and enter upon the duplicate assessment book of each district the respective sums to be collected, in the same manner that he makes computation and entry upon the assessment book for State and county tax purposes, and shall turn the same over to the tax collector at the same time and in the same manner that he does the assessment roll for State and county purposes. The tax collectors shall collect such tax or taxes at the same time and in the same manner that they collect State and county taxes; and all laws for the enforcement and collection of State and county taxes now in force, or hereafter to be enacted, shall be applicable to the enforcement and collection of all taxes in this act provided for. The tax collector shall pay the same over to the county treasurer at the same time and in the same manner as State and county taxes are paid. The county treasurer shall pay the same over to the State treasurer at the same time and in the same manner as State taxes are paid, and the State treasurer shall place the same to the credit of a fund to be known as the "Construction Fund of Drainage District Number One," "Two," "Three," etc., as the case may be.

Same.

SEC. 17. In case any drainage district is organized after the time provided by law for making assessments for State and county purposes, then the board of directors of such district shall, if they deem it advisable so to do, notify the auditor or auditors of the county or counties embraced in whole or in part in such district; and thereupon each of said auditors shall make a copy from the assessment book of that county for State and county taxation, as finally corrected and equalized by the proper authority, of all the property in that county embraced in said district, and shall immediately thereafter prepare, and forward by mail or express to said directors, a statement showing the total value of the property thus assessed and included in said district. The said directors must thereupon, and on some day before the first day of November of that year, levy a tax upon all the property in the district, of one-twentieth (1-20th) of one per cent. of the value of said property; and immediately thereafter they

must notify the auditor or auditors of the county or counties embraced in whole or in part in the district of the tax and rate so levied. The auditor of each county so notified shall thereupon compute, and enter upon said copy of the assessment book, this tax, in the same manner that he does taxes for State and county purposes. The said copy shall then be turned over to the tax collector of the county, and the taxes embraced in the same shall be collected, and finally paid over to the State treasurer, in the same manner and at the same times as stated in the preceding section of this act.

Compensation of auditors and assessors.

SEC. 18. The auditors and assessors of the counties embraced in any drainage district shall be allowed a reasonable compensation for making the duplicate assessment books, also the auditors for making a copy of the assessment book; and these claims for such compensation shall be audited and allowed by the directors of such drainage district, and shall be paid in the same manner as other claims against the district.

Hydraulic mine owners to render statement to assessor.

SEC. 19. The owner or owners, or the managing agent of every hydraulic mine, or any mine using water to wash the earth or ores for mining purposes, which mine may be embraced in whole or in part within any drainage district to be formed or organized under this act, and of all mines the waters from which carrying slickens, sand, or debris therefrom runs into any such district, shall, on or before the first day of July, A. D. eighteen hundred and eighty, and every year thereafter, at the time required for rendering a statement to the assessor for the purpose of assessing for State and county taxes, render to the assessor of the county in which the mine is located, a sworn statement showing the number of miners' inches of waters (of twenty-four hours' run) used by the mine, of which he is in whole or in part owner or the managing agent, for the preceding year ending on the first day of March next preceding the rendition of such statement. The statement shall include also the name and description of the mine. Upon the receipt of such statement from the owner or managing agent of such mines, the assessor shall enter the same, in a separate column, in the duplicate assessment book provided for this act, so that it will show the number of miners' inches of water (of each twenty-four hours' run) used by each of such mines within the county for which he is assessor.

Assessment on hydraulic mines.

SEC. 20. The board of directors shall, at the same time in October of each year that they levy the tax hereinbefore provided for, levy an assessment upon all hydraulic mines, and upon all mines washing earth or ores with water running into the district, of one half of one cent for each miners' inch of water of each twenty-four hours' run, used during such year, and shall notify the auditor of each county embraced in whole or in part in the district, of the amount so levied, and he shall compute and enter upon the duplicate assessment book the respective sums to be collected from the respective mines; and the tax collector shall collect said assessment at the same time and at the same manner that they collect State and county taxes; and the money so collected shall be paid over in the same manner and at the same time as herein provided for the collection of taxes, and the State treasurer shall place the same to the credit of the "Construction Fund" of the proper district.

State engineer to make map of unreclaimed swamp or overflowed land.

SEC. 21. Within a reasonable time after the organization of a drainage district, the State engineer shall make a map of all the unreclaimed swamp or

overflowed land in the district rendered unfit for cultivation by reason of being swamp or overflowed and not reclaimed, and shall also prepare a list of such lands, describing them by legal subdivisions, and shall file both said map and said list in the office of the directors of the district. Within three months after the filing of this list, the directors of the district shall give notice for thirty days in three newspapers of general circulation published in the district, that they will hear evidence, on a day to be named in said notice, for the purpose of correcting errors or omissions in said list. After hearing such testimony as may be offered, they shall correct said list in accordance with the facts.

Directors to prepare list of reclaimed lands.

SEC. 22. On or before the first day of March in each year, the directors of any drainage district in which any of the lands described in the list provided for in the preceding section have been reclaimed by reason of the construction of any of the works contemplated by this act, shall prepare a list or lists of all such lands so reclaimed situate in such district. The list shall contain a description by legal subdivisions, or other intelligent description, of each tract so reclaimed; the name of the owner of each tract; and if unknown, then that fact; the number of acres in each tract; and shall, on or before said date, deliver to the assessor of the county or counties in which any portion of said lands so reclaimed is situated, a certified copy of said list so far as the same relates to the lands situated in such county. Whereupon such assessor shall enter the same upon the duplicate assessment book provided for in this act.

Assessment.

SEC. 23. After any land has been reclaimed, and lists filed with the assessor, the board of directors shall assess the value of the reclamation to each tract of said land, not to exceed three dollars per acre, which shall be payable in six equal payments; provided, no one owner shall be liable for the payment due from any other owner. The directors shall, before the first day of October of each year, notify the auditors of the counties in which the land is situated, the amount of assessment per acre that is to be collected on each tract of land, and the auditor shall compute the same and enter the amount in a separate column in the duplicate assessment book prepared for the district, and the tax collector shall collect said assessment at the same time and in the same manner as he collects State and county taxes; and the money so collected shall be turned over to the county treasurer and paid by him to the State treasurer, the same as other moneys collected under the provisions of this act. The State treasurer shall place the same to the credit of the "Construction Fund" of the district to which it belongs.

State tax.

SEC. 24. There shall be levied in the year eighteen hundred and eighty, and each year thereafter, by the same officers, at the same time and in the same manner that other State taxes are levied, a tax of one twentieth of one per cent. on all the taxable property in the State in addition to other State taxes. Said tax must be collected by the same officers, at the same time, and paid over at the same time that other State taxes are collected and paid over. The State treasurer shall place all moneys received by him on account of such tax to the credit of a fund, to be known as the "State Drainage Construction Fund." The State drainage construction fund must be used and drawn upon in the same manner, and for the same purposes, as the "Construction Fund" of a drainage district; provided, that all moneys raised under the provisions of this act shall be used

exclusively for the construction of dams for impounding the debris from the mines hereinbefore specified, and for the improvement and ratification of river channels in which said debris flows within the drainage districts to be formed under the provisions of this act, at such points thereof as shall be designated by the State engineer, or deemed necessary by the board of directors of such drainage district.

Duty of State treasurer.

SEC. 25. The State treasurer is hereby authorized and required to pay all warrants drawn by the State controller upon the "Construction Fund" of any drainage district, or upon the "State Drainage Construction Fund," out of such fund; provided, that if there be no money in the "State Drainage Construction Fund" to meet the payment of any warrant on that fund, the State treasurer shall pay such warrants out of any other money in the State treasury not otherwise appropriated, but not exceeding in the aggregate the amount, or the balance of the amount, to be paid into the "State Drainage Construction Fund," under this act, for the current year, upon an estimate based upon the assessed value of all the taxable property in the State for the preceding year; and provided further, that no indebtedness shall be created against either of said funds for any one year in excess of the amount provided to be raised by the tax levy for said year for said funds; said levy to be estimated upon the assessment roll for the previous year; and when the State tax in this act provided for is collected and paid into the treasury, the money so paid shall be repaid from the "State Drainage Construction Fund."

Responsibility of officers.

SEC. 26. All officers acting under the provisions of this act, and their bondsmen, are hereby made responsible for the collection, safe keeping, and proper accounting of the taxes and funds intrusted to them, in the manner herein provided in accordance with the laws regulating their duties and responsibilities in connection with State and county funds.

Construction of act.

SEC. 27. Nothing in this act shall be construed in such a manner as to invalidate the indebtedness of any reclamation or levee district, or any assessment levied therein, or to affect in any manner whatever the laws in force in relation to reclamation and levee districts; nor shall any levees be condemned or purchased under the provisions of this act.

Chinese not to be employed.

SEC. 28. No Chinese or Mongolians shall be employed in any capacity whatever on any work to be done in pursuance of the provisions of this act.

SEC. 29. This act shall take effect and be in force from and after its passage.

El Dorado County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,146.

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| <p>To pay claim of Edward Hunt out of school fund, 1877-8, 26.
 To levy taxes for county purposes, and redeem bonded indebtedness, 1877-8, 75.
 Extending time for completion of race-way through Placerville, 1877-8, 83.
 Relating to assessor's office, 1877-8, 110.
 Concerning trespassing animals, 1877-8, 176.
 Amendatory to act empowering O. F. Irwin to execute certain trusts, 1877-8, 252.
 Amendatory act creating board of auditors, 1877-8, 281.
 For improvement and maintenance of public roads, 1877-8, 545.</p> | <p>Repealing act of March 20, 1876, to protect agriculture 1877-8, 557.
 Conferring power on auditors as to claim of W. M. Donahue, 1877-8, 579.
 To provide for transcribing the great register, 1877-8, 637.
 Amendatory act of March 16, 1878, for transfer of certain funds, 1877-8, 638.
 For preservation of fish in Lake Bigler, 1877-8, 746.
 Fixing salaries of certain officers, 1877-8, 778.
 For funding of bonded indebtedness, 1046.</p> |
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Emigration.

An Act to promote emigration from the State of California.

Approved March 26, 1880; 1880, 15 (Ban. ed. 50).

15,147. *To promote emigration from the State.*

SECTION 1. It shall be unlawful for the owners, officers, agents, or employes of any steamship company, sailing vessel, or railroad company, or firm, or corporation that may be engaged in this State in the transportation of passengers to and from any foreign port, to withhold or refuse any person or persons the right to purchase a passage ticket or tickets to any foreign country, for the reason that he or they have not presented a certificate, card, or other document whatsoever, showing that such person has paid in full, or in part, any or all dues, debts, or demands, or otherwise, or any sum whatsoever, to any society, company, corporation, association, or individual, or firm; and any person or corporation who shall violate the provisions of this section, or in pursuance of any agreement, oral or written, refuse to sell a passage ticket to any person to any foreign country, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred nor more than five hundred dollars; provided, that nothing in this section shall be construed in any manner to apply to any passport or other document required by law to be presented, having the signature or seal of any foreign consul resident within this State.

SEC. 2. This act shall take effect on and after its passage.

Fees and Salaries.

An Act to regulate fees of office and salaries of certain officers, and to repeal certain other acts in relation thereto.

Approved March 8, 1870; 1869-70, 148.

[This act was amended in 1878, as follows:]

15,235. *Justices of the peace.*

SEC. 26. Fees of justices of the peace in the several counties of this State: For filing each paper, twenty-five cents; issuing any writ or process by which suit is commenced, fifty cents; for entering every cause upon his docket, fifty cents; for issuing subpoena, twenty-five cents; for administering an oath or affirmation, twenty-five cents; for each certificate, twenty-five cents; for issuing writ of attachment, or of arrest, or for the delivery of property, fifty cents; for entering any final judgment, for the first folio, one dollar; for each additional folio, twenty cents; for taking or approving [any bond] or undertaking directed by law to be taken or approved by him, fifty cents; for taking justification to a bond, fifty cents; for swearing a jury, fifty cents; for taking deposition, per folio, twenty cents; for entering satisfaction of a judgment, fifty cents; for copy of a judgment, order, docket, proceeding, or paper in his office, for each folio, twenty cents; for issuing commission to take testimony, fifty cents; for issuing supersedeas to an execution, fifty cents; for making up and transmitting transcript and papers on appeal, one dollar and fifty cents; for issuing search warrants, fifty cents; for issuing an execution, fifty cents; for celebrating marriage and returning certificate thereof to the recorder, five dollars; for all services and proceedings before a justice of the peace in a criminal action or proceeding, whether on examination or trial, three dollars, provided, in the County of Los Angeles the fees in a criminal action shall be collected from the defendant, if

convicted, but shall in no case become a county charge; for taking bail after commitment in criminal cases, one dollar; for entering cause without process, one dollar; for entering judgment by confession and only on affidavit as required in district court, three dollars; for entering every motion, rule, exception, order, or default, twenty-five cents; for taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents; for all services connected with the posting of estrays, including the transcript for the recorder, two dollars. In cases before justices of the peace when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered in the making up and transmission of the transcript and papers, shall receive two dollars, and the justice before whom the trial shall take place shall receive the same fees as if the action had been commenced before him. All fees of justices of the peace, including those on trial and those on appeal, must be paid before the justice shall be compelled to forward any papers on appeal. For all services appertaining to the coroner's office which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner for similar services; provided, that in the County of Los Angeles no justice of the peace shall be entitled to receive, in full compensation for all services rendered by him in criminal cases, a sum exceeding three hundred dollars in the aggregate per annum. For transcript of judgment per folio, twenty cents; provided, that in the Counties of Amador and Sierra, justices of the peace may lawfully charge, demand, and receive the fees allowed by an act to regulate fees of office, approved April tenth, eighteen hundred and fifty-five; provided further, that in the Counties of Alameda, Santa Clara, Santa Cruz, Monterey, and Sutter, each justice of the peace shall be allowed, in a civil action before him, the following fees, and no other: For all services required to be performed by him before trial, two dollars, and two dollars additional for each writ of attachment or replevin; and for the trial and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issue of execution thereon, three dollars, and twenty-five cents for each hour actually occupied by the trial of each cause; and in all cases where judgment is rendered by default, or confession, for all services, including execution and satisfaction of judgment, three dollars; for certificate and papers of appeal, one dollar; for copies of papers or docket, per folio, fifteen cents; for issuing a search warrant, to be paid by the party demanding the same, fifty cents; for celebrating a marriage, and returning a certificate thereof to the county recorder, three dollars; for taking depositions, per folio, fifteen cents; for administering an oath, and certifying the same, twenty-five cents; for issuing a commission to take testimony, fifty cents; for taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents; for all services and proceedings before a justice of the peace in a criminal action or proceeding, whether on examination or trial, three dollars; for all services connected with the posting of estrays, including the transcript for the recorder, two dollars. In cases before justices of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive two dollars, and the justice before whom the trial shall take place shall receive the same fees as if the action had been commenced before him. All fees of justices of the peace, including those on trial and those on appeal, must be paid before the justice shall be be compelled to forward any papers on appeal. For all

services appertaining to the coroner's office, which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner for similar services. [*Amendment, approved March 1, 1878, 1877-8, 134; took effect from passage.*]

REFERENCES TO SPECIAL AND LOCAL ACTS REGULATING FEES AND SALARIES, AND MORE OR LESS AFFECTING THE GENERAL FEE BILL.

15,302.

[As the legislature of 1880 did not pass any fee bill applicable to the State at large, it becomes necessary, to ascertain the law in reference to fees in any particular county, to consult, in connection with the general fee bill of 1870, the special and local acts applicable to such county. The following are references to such acts, passed by the legislature of 1877-8:

ALAMEDA COUNTY.

Fixing compensation of under sheriff, deputy sheriffs, and county jailers, 1877-8, 950.

ALPINE COUNTY.

Regulating traveling fees of sheriff and constables, 1877-8, 372.

BUTTE COUNTY.

Amending act of March 27, 1874, fixing salaries, 1877-8, 248.

Making sheriff collector of licenses, etc., 1877-8, 287.

Concerning office of sheriff, 1877-8, 567.

Regulating justices' fees, 1877-8, 683.

CALAVERAS COUNTY.

Regulating constables' fees, 1877-8, 592.

COLUSA COUNTY.

Relating to justices' fees, 1877-8, 782.

CONTRA COSTA COUNTY.

Fixing fees of justices of the peace, 1877-8, 269.

EL DORADO COUNTY.

Fixing salaries of certain officers, 1877-8, 778.

FRESNO COUNTY.

Fixing salary and bond of treasurer, 1877-8, 255.

INYO COUNTY.

Fixing salary of treasurer, 1877-8, 157.

Fixing compensation of assessor, 1877-8, 256.

Regulating traveling fees of sheriff and constables, 1877-8, 372.

KERN COUNTY.

Fixing salary and bond of treasurer, 1877-8, 255.

Regulating traveling fees of sheriff, 1877-8, 559.

LAKE COUNTY.

Amending act of March 21, 1876, regulating fees and salaries, 1877-8, 256.

LASSEN COUNTY.

Regulating fees, 1877-8, 683.

LOS ANGELES COUNTY.

Regulating fees and salaries, 1877-8, 574.

MENDOCINO COUNTY.

Fixing fees of recorder, 1877-8, 183.

MERCED COUNTY.

Regulating salaries of assessor and sheriff, 1877-8, 107.

Fixing salary of district attorney, 1877-8, 137.

MODOC COUNTY.

Regulating fees and salaries, 1877-8, 140, 454.

MONTEREY COUNTY.

Regulating fees and salaries, 1877-8, 863.

NAPA COUNTY.

Regulating fees of sheriff, 1877-8, 551.

NEVADA COUNTY.

Regulating salaries and fixing compensation of certain officers, 1877-8, 551.

PLACER COUNTY.

Concerning fees of recorder, 1877-8, 268.

PLUMAS COUNTY.

Relating to certain officers and fixing compensation, 1877-8, 547.

SAN BERNARDINO COUNTY.

Concerning fees and salaries of certain officers, 1877-8, 80.

SAN DIEGO COUNTY.

Amending act of March 31, 1876, as to fees of assessor, 1877-8, 128.

SAN FRANCISCO CITY AND COUNTY.

Relating to office of sheriff, 1877-8, 355.

Fixing salary of mayor's clerk, 1877-8, 1023.

SAN JOAQUIN COUNTY.

Fixing salary of county judge, 1877-8, 782.

SAN LUIS OBISPO COUNTY.

Fixing compensation of district attorney, 1877-8, 451.

Relating to fees of recorder, 1877-8, 701.

SAN MATEO COUNTY.

Relating to salaries of certain officers, 1877-8, 583.

SANTA CLARA COUNTY.

Relating to fees and salaries, 1877-8, 288.

Relating to the fees of coroner, 1877-8, 426.

SANTA CRUZ COUNTY.

Fixing salaries of supervisors, 1877-8, 155.

Relating to juries and mileage of witnesses in criminal cases, 1877-8, 564.

SOLANO COUNTY.

Regulating official salaries, 1877-8, 536.

SONOMA COUNTY.

Regulating fees and salaries, 1877-8, 129, 328.

STANISLAUS COUNTY.

Regulating salaries of certain officers, 1877-8, 1001.

TULARE COUNTY.

Regulating traveling fees of sheriff, 1877-8, 559.

YOLO COUNTY.

Concerning salaries of certain officers, 1877-8, 637.

YUBA COUNTY.

Concerning fees of justices of the peace, 1877-8, 738.]

Fences.

An Act to provide for constructing division fences.

Approved March 9, 1876; 1875-6, 176.

15,321.

[This act was amended in 1878 as follows:]

Lawful division fences.

SEC. 2. Lawful division fences are described as follows:

First—If made of stone, four feet high, three feet base, and one foot thick on the top.

Second—If it be worm fence, the rails should be well laid, and at least five feet high.

Third—If made of posts and boards, the posts must be set well in the ground, not less than eighteen inches, and not wider apart than eight feet. If intended to turn all stock, it shall be at least five six-inch boards or four eight-inch boards high, or four boards high with a ditch embankment equal to one board, or four six-inch boards high with a wire on top; the boards to be six inches wide and one inch thick, the top board or wire to be four and one half feet from the ground, the spaces well divided, and the boards securely nailed to the posts. If intended, as by mutual agreement in writing, a lawful fence to turn only neat

cattle, horses, and mules, a three-board fence shall be deemed sufficient, the bottom board to be two feet from the ground.

Fourth—If made of pickets, posts and rails, or posts and poles, and a ditch or ditches, the fence must be equally strong and secure as a fence made as described in the last subdivision.

Fifth—If made of wire, posts and poles, ditch, pickets, hedge, brush, or any other materials, the fence, to be lawful, must be equal in strength and capacity to turn stock as the fence described in the third subdivision of this section. [*Amendment, approved March 30, 1878; 1877-8, 765; took effect from passage.*]

SAN MATEO COUNTY.

15,335.

[The act of March 9, 1876, above referred to, was repealed so far as it related to San Mateo County by act of April 1, 1878; 1877-8, 1019; took effect from passage.]

SONOMA COUNTY.

An Act in relation to division fences in the County of Sonoma and the lines of counties bordering thereon.

Approved March 29, 1878; 1877-8, 692.

[This act provided a special system of division fence law for the county named.]

Fish.

15,340.

[The legislation, except direct amendments of the Political and Penal Codes, in reference to fish, since the publication of the "Codes and Statutes" in 1876, may be here referred to as follows:

An act to prohibit the destruction of fish in Alameda County (Lake Chabot and San Leandro Creek), approved March 28, 1878; 1877-8, 598. See ante, 13,637.

An act to prevent the destruction of fish in King's River, approved March 28, 1878; 1877-8, 601. See ante, 13,637.

An act for the preservation of fish in the waters of Lake Bigler, approved March 30, 1878; 1877-8, 746. See ante, 13,637.

An act to provide for removing obstructions in Pitt River, above the mouth of Hat Creek, so as to enable salmon to reach the spawning grounds on the upper waters of said river and its tributaries, approved April 16, 1880; 1880, 104 (Ban. ed. 343). See ante, 643.

An act for the protection of certain kinds of fish (cat fish), approved April 16, 1880; 1880, 106 (Ban. ed. 345). See ante, 13,637.

An act to provide for the construction, maintenance, and regulation of fish-ways in streams naturally frequented by salmon, shad, and other migratory fish, approved April 16, 1880; 1880, 121 (Ban. ed. 387). See ante, 643.

An act relating to fishing in the waters of this State, approved April 23, 1880; 1880, 123 (Ban. ed. 388). See ante, 13,637.]

Fresno County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,345.

Extending time for publishing delinquent tax list, 1877-8, 64.

As to office of county clerk, 1877-8, 104.

For improvement of court house and hospital grounds, 1877-8, 174.

Providing for building a school house in Fresno City School District, 1877-8, 205.

To protect town of Fresno against fire, 1877-8, 214.

Fixing salary of treasurer, 1877-8, 255.

To determine rights of parties in certain swamp and overflowed lands, 1877-8, 368.

To promote sanitary condition of towns and villages, 1877-8, 383.

For issue of bonds and building certain roads and bridges, 1877-8, 396.

For relief of bondsmen of W. W. Hill, late treasurer, 1877-8, 451.

Creating "West Side Irrigation District," 1877-8, 463.

To prevent destruction of fish in King's River, 1877-8, 601.

To provide a new great register, 1877-8, 693.

Relating to distribution of school moneys, 1877-8, 783.

Providing for roads and highways, 1877-8, 859.

Amending act for improvement of King's River, and erecting booms therein, 1877-8, 961.

To attach a portion of King's River School District to Kingsbury School District, 1877-8, 1010.

Fruit Trees and Vines.

15,346.

An Act for the better protection of fruit trees and vines.

Approved April 9, 1880; 1880, 36 (Ban. ed. 187).

Commissions and their powers.

SECTION 1. The board of supervisors in the several counties of this State are hereby authorized, when application is made in writing by five legal voters of any voting precinct in the county, to appoint a commission of such number as they shall deem necessary, to inspect fruit trees and vines within the district for which they shall have been appointed; and in case disease of any kind be found among said trees or vines, which is extending and likely to extend to neighboring vineyards or orchards, said commission may order such action taken by the removal of such trees and vines, or otherwise, as they may deem necessary for the public good; provided, such commission shall serve without compensation, and the labor necessary to comply with their recommendations shall be at the expense of the owner of the property.

Sec. 2. This act shall take effect immediately.

Funds.

15,410.

[The following references are to special acts relating to various funds:

An Act to authorize the controller and treasurer of State to transfer certain funds, approved March 9, 1878; 1877-8, 201.

An Act to provide for the payment of certain coupons upon bonds issued by "The Central Pacific Railroad Company," and known as "State Aid Bonds," approved March 19, 1878; 1877-8, 335.

An Act to create a commission to examine and report the condition of certain funds [of the University of California], approved April 1, 1878; 1877-8, 928.

An Act to authorize the controller and treasury of State to transfer certain funds, approved January 23, 1880; 1880, 1 (Ban. ed. 1).]

Game.

15,415.

[An Act to prevent the destruction of deer on Monte Diablo, in Contra Costa County, approved March 28, 1878; 1877-8, 599. See ante, 13,628.]

Gas.

An Act to regulate the quality and standard illuminating power, and the price of gas, in all cities within the State of California having a population of one hundred thousand or more.

Approved March 4, 1878; 1877-8, 107.

15,416. *Quality and price of gas to be fixed, by whom.*

SECTION 1. That in all cities in the State of California having a population of one hundred thousand or more, the local legislative body thereof, whether known and designated as the board of supervisors, or board of aldermen, or common council, or board of trustees, or otherwise, are hereby authorized and required to fix the standard quality and illuminating power of gas to be furnished, and the rate and price for each one thousand cubic feet to be charged therefor, by any person, company, or corporation whose pipes or mains are or shall be laid down in the streets or highways of such city, for the purpose of supplying gas for the use of such city, or for the inhabitants thereof, or for

such city and its inhabitants; provided, however, that said board or local authority shall not fix or establish the standard quality and illuminating power of gas in such city at less than sixteen-candle power, or such that five cubic feet of gas per hour so furnished shall give light at least equal to that afforded by the combustion of sixteen standard sperm candles consuming one hundred and twenty grains of sperm each per hour, the burner to be used in making such test to be that best adapted to the economical consumption of gas; and provided further, that such board of supervisors, or local legislative authority, by whatever name it may be known, shall not fix or establish the rate or price of gas so furnished to such city or its inhabitants at any greater price or rate than three dollars per thousand cubic feet.

Mayor to appoint an inspector.

SEC. 2. It shall be the duty of the mayor of each city having the population mentioned in section one of this act, and such mayor is hereby required, within thirty days after the passage and approval of this act, to appoint, subject to the approval of the board of supervisors, or other local legislative body aforesaid, a person of competent experience and knowledge of and concerning the proper qualities and illuminating power of gas, and who shall not be directly or indirectly interested in or connected with any person, company, or corporation, engaged in the manufacture or furnishing of illuminating gas in such city, or elsewhere, either to such city or its inhabitants, or any of them, either as a stockholder or otherwise, who shall be known and designated as gas inspector of such city, who shall hold his said office for the term of two years, or until his successor shall be appointed and qualified; subject, however, to removal from his said office by the mayor, with the concurrence of a majority of the board of supervisors, or other local legislative board aforesaid, for any one of the following causes, to wit: by reason of any interest in the manufacture or furnishing of gas in such city, whether such interest existed at the date of his appointment or was afterward acquired, or for want of competent knowledge, skill, or experience to enable him properly to discharge the duties of said office, or for any neglect, misconduct, or inefficiency in the discharge of the duties of said office, to the prejudice of such city, or its inhabitants, or any of them. The person so appointed shall, before he enters upon the duties of said office, and within ten days after his appointment and confirmation, take and subscribe an oath or affirmation before the county judge of the county in which such city is situated, that he will faithfully and impartially perform and discharge all the duties required by this act and the ordinances or resolutions of said board passed or adopted under and pursuant to the provisions thereof, as such gas inspector of such city, and shall also, within the same time, give bond to the city in and for which he is appointed, in the sum of ten thousand dollars, with sureties to be approved by said board, conditioned for the faithful performance of the duties of said office, which said oath and bond shall be filed with the clerk of said board. Such gas inspector shall be entitled to a salary to be fixed and allowed by said board, which shall be paid monthly out of the general fund of such city.

Duty of inspector.

SEC. 3. It shall be the duty of such inspector, immediately upon his appointment and qualification as such officer, as aforesaid, to make a careful examination and inquiry, by inspection, letter, or otherwise, as to the quality and illuminating power of the gas furnished and used in the principal cities of the

United States, and the prices charged therefor, and also the comparative cost of the manufacture and supply of gas in other cities of the United States, with the cost of the manufacture and supply of the same in the city for which he is such inspector, and report fully the result of such examination and information to said board within six months after his appointment and qualification; and upon receiving such reports, said board shall proceed to fix and establish the quality and standard illuminating power of gas to be used in such city, and the maximum price to be charged therefor; and such standard and price may be changed by said board from time to time, not oftener than once every year, as increased consumption or other circumstances may in their judgment require.

Same.

SEC. 4. After said board shall have fixed and established the quality and illuminating power, and the price of gas, as hereinbefore, it shall be the duty of such inspector to examine and inspect, from time to time, at least once every week, without notice to the person, company, or corporation furnishing the same, the quality and illuminating power of the gas furnished to such city and the inhabitants thereof, and in case the same shall fall below the standard fixed by said board, the said inspector shall forthwith report the same to said board; and, at such other times as he may be requested thereto by the mayor or any committee of said board, he shall report to said board upon any and all matters connected with the manufacture, supply, and consumption of gas coming within the scope of his official duties, and specially upon any subject or subjects, matters or things connected therewith and specified in such request.

Certain acts declared unlawful.

SEC. 5. After said board shall have fixed and established the quality and standard illuminating power of the gas, and the price per thousand cubic feet, as in this act provided to be charged therefor, it shall be unlawful for any person, company, or corporation to furnish to such city, or any inhabitant thereof, or other person therein, for illuminating purposes, gas of a lower standard or quality, or to charge or receive therefor a higher price than is provided by said board, under the authority and subject to the limitations of this act; and for every violation of the provisions of this act, or the provisions of any order, resolution, or ordinance of said board made in pursuance thereof, every such person, company, or corporation shall incur a penalty of not less than one hundred nor more than one thousand dollars, to be recovered in a civil action in the name and for the use of such city, in any court of competent jurisdiction; and each day upon which such person, company, or corporation shall, without reasonable cause or excuse therefor, furnish gas of a lower quality or standard illuminating power than that fixed by said board, shall constitute and be considered and held one violation thereof, and each month or shorter period for which said person, company, or corporation shall take an account of gas consumed, and for which they shall charge or receive a price greater than that fixed by said board, shall be held and regarded as one offense, and any number of such offenses of either class, or both, may be joined in the same action, and the several penalties for the several violations proved or confessed in said action may be united and recovered in the same judgment; and such person, company, or corporation shall also be liable to such city and to any and each person or corporation who shall be injured by any such violation, in double the amount of damages actually sustained.

Actions tried, by whom.

SEC. 6. All actions for penalties under the provisions of this act shall be tried by the court, unless a jury be demanded by either party; and when such action shall be tried by a jury, the jury shall find, as to each violation charged in the complaint, that "the defendant is guilty," or "the defendant is not guilty;" and upon each charge in respect to which the jury has found the defendant guilty, the court shall fix the penalty, and render judgment for the aggregate amount of such penalties, together with costs of suit.

SEC. 7. All penalties recovered under this act shall be paid into the general fund of such city.

SEC. 8. This act shall apply to the City and County of San Francisco, as well as to cities whose municipal government is distinct from the county in which they are located.

SEC. 9. This act shall take effect immediately.

Goats.

An Act to prevent buck goats running at large.

Approved March 22, 1878; 1877-8, 427.

15,424. *Buck goats not to run at large.*

SECTION 1. It shall not be lawful for the owner or owners of any buck goat or buck goats, or any person or persons in charge of such goat or goats, to turn or permit such goat or goats to be turned or run at large in any county of this State.

Penalty for violation.

SEC. 2. Any person violating the provisions of the first section of this act shall, upon complaint and conviction before a justice of the peace of the proper township, be fined in a sum not less than five dollars, nor more than twenty dollars, to be collected as fines are now by law collected.

SEC. 3. This act shall take effect on and after the first day of July, eighteen hundred and seventy-eight.

[In addition to the foregoing general act in relation to goats, there are various acts referring to the running at large of and trespassing by these animals. Some of them are noted under the head of "Hogs" and "Sheep." The following, passed in 1878, may be referred to here:

An Act to prevent the trespassing of goats on inclosed lands in Amador County, approved March 26, 1878; 1877-8, 536.

An Act to prevent sheep and goats from being herded or running at large in certain portions of Lake County, approved March 29, 1878; 1877-8, 685.]

Hogs.

15,454.

[An Act repealing section four of an act extending the provisions of an act concerning hogs found running at large in the Counties of Colusa, Tehama, Butte, Sonoma, and Napa, to Modoc County, approved March 23, 1874, so far as the same relates to that portion of Modoc County known as Adin Township, approved February 25, 1878; 1877-8, 111.

An Act to amend an act entitled an act to extend an act concerning hogs found running at large in the Counties of Marin, Sacramento, San Francisco, Alameda, Stanislaus, Yuba, and Santa Clara, approved April 21, 1856, approved April 8, 1859, by repealing the act so far as it relates to Trinity County, except the town site of the Town of Weaverville in said county, approved March 8, 1878; 1877-8, 184.

An Act to amend an act approved April 1, 1876, entitled "An Act to extend

the act of April 21, 1856," approved April 1, 1864 (extending the same to Placer, Plumas, and Lassen Counties), approved March 29, 1878; 1877-8, 640.]

HOGS IN TOWNS.

15,464.

[An Act to prevent hogs and goats from running at large within the limits of the town site of the Town of Weaverville, Trinity County, California, approved January 22, 1878; 1877-8, 33.]

An Act to repeal an act entitled an act to prevent hogs from running at large in the Towns of Red Bluff and Tehama, in Tehama County, approved February 14, 1878; 1877-8, 79.

An Act to amend an act entitled "An Act to prevent hogs and goats running at large on certain lands in this State," approved March 31, 1876 (applying it to town sites in Rocklin Precinct, in Placer County), approved February 15, 1878; 1877-8, 85.

An Act to prevent hogs from running at large in the Towns of Lakeport and Lower Lake, in Lake County, approved March 23, 1878; 1877-8, 435.

An Act to amend an act to prevent hogs from running at large in the Town of Shasta, approved February 26, 1872, so as to make the same applicable to the Town of Redding, in Shasta County, and the Town of Modesto, in Stanislaus County, approved March 27, 1878; 1877-8, 585.

An Act to prevent hogs and goats running at large in the Town of Plymouth, Amador County, approved April 1, 1878; 1877-8, 1020.]

Humboldt County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,478.

Repealing act for destruction of certain wild animals, 1877-8, 2.	To provide a fund for payment of certain indebtedness, 1877-8, 249.
Repealing act relating to herding of sheep. 1877-8, 79.	To authorize maintenance of booms in Elk River, 1877-8, 607.
Authorizing Mad River Boom and Land Company to construct booms in Humboldt Bay. 1877-8, 114.	For scaling logs. 1877-8, 779.
Concerning trespassing animals. 1877-8, 176.	To improve Mad River and its north fork, 1877-8, 788.
Authorizing common council of Eureka to sit as board of equalization, 1877-8, 184.	

Hunting on Private Grounds.

15,483.

An Act to prevent persons passing through inclosures and leaving them open, by tearing down fences or otherwise, and to prevent hunting upon inclosed lands in the State of California.

Approved March 23, 1876; 1876-6, 408.

[This act was amended in 1878, as follows:]

SEC. 8. Section three of this act shall not apply to the Counties of Los Angeles, San Diego, Sutter, San Benito, Del Norte, El Dorado, Colusa, Yuba, Humboldt, Amador, Tuolumne, Shasta, Plumas, Lassen, Siskiyou, Modoc, Trinity, Sierra, Placer, and Santa Cruz. [*Amendment, approved March 30, 1878; 1877-8, 776; took effect immediately.*]

Insolvents.

An Act for the relief of insolvent debtors, for the protection of creditors, and for the punishment of fraudulent debtors.

Approved April 13, 1880; 1880, 82 (Dan. ed. 316).

ARTICLE I.

GENERAL SUBJECT OF THE ACT.

15,505. *Act, how cited.*

SECTION 1. Every insolvent debtor may, upon compliance with the provisions of this act, be discharged from his debts and liabilities. This act shall be known and may be cited as the Insolvent Act of eighteen hundred and eighty.

ARTICLE II

VOLUNTARY INSOLVENCY.

15,506. *Petition.*

SEC. 2. An insolvent debtor, owing debts exceeding in amount the sum of three hundred dollars, may apply by petition to the superior court of the county, or city and county, in which he has resided for six months next preceding the filing of his petition, to be discharged from his debts and liabilities. In his petition, he shall set forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, and his desire to obtain a discharge from his debts and liabilities, and shall annex thereto a schedule and inventory, and valuation, in compliance with the provisions of this act. The filing of such petition shall be an act of insolvency, and thereupon such petitioner shall be adjudged an insolvent debtor.

15,507. *Schedule.*

SEC. 3. Said schedule must contain a full and true statement of all his debts and liabilities, exhibiting to the best of his knowledge and belief to whom said debts or liabilities are due, the place of residence of his creditors, and the sum due to each; the nature of the indebtedness or demand, whether founded on written security, obligation, contract, or otherwise; the true cause and consideration thereof, and the time and place when and where said indebtedness accrued, and a statement of any existing pledge, lien, mortgage, judgment, or other security for the payment of the same.

Inventory.

SEC. 4. Said inventory must contain an accurate description of all the estate, both real and personal, of the petitioner, including his homestead, if any, and all property exempt by law from execution, and where the same is situated, and all incumbrances thereon.

15,508. *Affidavit.*

SEC. 5. The petition, schedule, and inventory must be verified by the affidavit of the petitioner, annexed thereto, and shall be in form substantially as follows: I, —, do solemnly swear that the schedule and inventory now delivered by me contain a full, perfect, and true discovery of all the estate, real, personal, and mixed, goods and effects, to me in any way belonging; all such debts as are to me owing, or to any person or persons in trust for me, and all securities and contracts, and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me or to my use, or to any other person or persons in trust for me; that I have no lands, money, stock, or estate, reversion or expectancy besides that set forth in my schedule and inventory; that I have, in no instance, created or acknowledged a debt for a greater sum than I honestly and truly owe; that I have not, directly or indirectly, sold, or otherwise disposed of, or concealed any part of my property, effects, or contracts; that I have not in any way compounded with my creditors whereby to secure the same, or to receive, or to expect any profit or advantage therefrom, or to defraud or deceive any creditor to whom I am indebted in any manner. So help me God.

15,509. *Order of transfer of property and stay of proceedings.*

SEC. 6. Upon receiving and filing such petition, schedule, and inventory, the court shall make an order declaring the petitioner insolvent, and directing the sheriff of the county to take possession of all the estate, real and personal, of

the debtor, except such as may be by law exempt from execution, and of all his deeds, vouchers, books of account and papers, and to keep the same safely until the appointment of an assignee. Said order shall further forbid the payment of any debts and the delivery of any property belonging to such debtor, to him, or for his use, and the transfer of any property by him; and shall further appoint a time and place for a meeting of the creditors, to prove their debts and choose one or more assignees of the estate, which shall not be less than thirty days after the making of said order, and shall designate a newspaper or newspapers of general circulation in which publication thereof shall be made. Upon the granting of said order, all proceedings against the said insolvent shall be stayed.

Publication.

SEC. 7. A copy of said order shall immediately be published by the clerk of said court in the newspaper or newspapers designated therein, as often as the newspaper is printed before the meeting of creditors, and be served by the clerk forthwith by United States mail, postage prepaid, or personally, on all creditors named in the schedule. The order of adjudication shall direct the publication thereof in a newspaper published in the county, or city and county, in which the petition is filed, if there be one, and if there be none, in a newspaper published nearest to such county, or city and county; provided, that no order of adjudication upon creditors' petition shall be entered, unless there first be deposited with the clerk, in addition to the usual cost of commencing said proceedings, a sum of money sufficient to defray the cost of the publication ordered by the court, and ten cents for each copy, to be mailed to or served on the creditors, which latter sum is hereby constituted the legal fee of the clerk for the mailing or service required in this section.

ARTICLE III.

INVOLUNTARY INSOLVENCY.

15,510. *Petition for adjudication of involuntary insolvency.*

SEC. 8. An adjudication of insolvency may be made on the petition of five or more creditors, residents of this State, whose debts or demands accrued in this State, and amount in the aggregate to not less than five hundred dollars; provided, that said creditors, or either of them, have not become creditors by assignment within thirty days prior to the filing of said petition. Such petition must be filed in the superior court of the county, or city and county, in which the debtor resides or has his place of business, and must be verified by at least three of the petitioners, setting forth that such person is about to depart from the State, with intent to defraud his creditors; or being absent from the State with such intent, remains absent; or conceals himself to avoid the service of legal process; or conceals, or is removing any of his property, to avoid its being attached or taken on legal process; or being insolvent, has suffered his property to remain under attachment, or legal process, for four days; or has confessed, or offered to allow judgment in favor of any creditors; or willfully suffered judgment to be taken against him by default; or has suffered, or procured his property to be taken on legal process, with intent to give a preference to one or more of his creditors; or has made any assignment, gift, sale, conveyance, or transfer of his estate, property, rights, or credits, with intent to delay, defraud, or hinder his creditors; or in contemplation of insolvency, has made any payment, gift, grant, sale, conveyance, or transfer of his estate, property, rights, or credits; or has been arrested and held in custody

by virtue of any civil process of court founded on any debt or demand, and such process remains in force, and not discharged by payment, or otherwise, for a period of four days; or being a merchant or tradesman, has stopped or suspended, and not resumed payment within a period of forty days after maturity of any written acknowledgment of indebtedness, unless the party holding such acknowledgment has, in writing, waived the right to proceed under this subdivision; or being a bank, or banker, agent, broker, factor, or commission merchant, has failed for forty days to pay any moneys deposited with or received by him in a fiduciary capacity, upon demand of payment, excepting savings and loan banks, or associations, who loan the money of their stockholders and depositors on real estate, and provide in their by-laws for the repayment of such deposits. The petitioners may, from time to time, amend and correct the petition, so that the same shall conform to the facts, by leave of the court before which the proceedings are pending, but nothing in this section shall be construed to invalidate any loan of actual value, or the security therefor, made in good faith upon a security taken in good faith on the occasion of the making of such loan; the said petition shall be accompanied by a bond with two sureties in the penal sum of at least five hundred dollars, conditioned that if the debtor should not be declared an insolvent the petitioners will pay all costs and damages, including a reasonable attorney's fee, that the debtor may sustain by reason of the filing of said petition. The court may, upon motion, direct the filing of an additional bond with different sureties when deemed necessary.

15,511. *Order to show cause.*

Sec. 9. Upon the filing of such creditors' petition, the court shall issue an order requiring such debtor to show cause, at a time and place to be fixed by said court, why he should not be adjudged an insolvent debtor, and at the same time, or thereafter, upon good cause shown therefor, said court may make an order forbidding the payment of any debts, and the delivery of any property belonging to such debtor to him or for his use, or the transfer of any property by him.

Service of copy of petition and order.

Sec. 10. A copy of said petition, with a copy of the order to show cause, shall be served on the debtor, in the same manner as is provided by law for the service of summons in civil actions, but such service shall be made at least ten days before the time fixed for the hearing; provided, that if, for any reason, the service is not made, the order may be renewed, and the time and place of hearing changed, or by a supplemental order by the court, or if such debtor cannot be found, or his place of abode ascertained, service shall be made by publication, as is provided in the Code of Civil Procedure for service of summons by publication.

Demurrer.

Sec. 11. At the time fixed for the hearing of said order to show cause, or such other time as it may be adjourned to, the debtor may demur to the petition for the same causes as is provided for demurrer in other cases by the Code of Civil Procedure. If the demurrer be overruled, the debtor shall have ten days thereafter in which to answer the petition. If the debtor answers the petition, such answer shall contain a specific denial of the material allegations of the petition controverted by him, and shall be verified in the same manner as pleadings in civil actions; and the issues raised thereon may be tried with or

without a jury, according to the practice provided by law for the trial of civil actions.

15,512. Order of adjudication—Schedule and inventory.

SEC. 12. If the respondent shall make default, or if, after a trial, the issues are found in favor of the petitioners, the court shall make an order adjudging that said respondent is, and was at the time of filing the petition, an insolvent debtor, and shall require said debtor, within such time as the court may designate, to file in court the schedule and inventory provided for in sections three and four of this act; and thereupon all proceedings shall be had in said matter in the same manner as if said debtor had voluntarily filed his petition.

15,513. Dismissal of proceedings.

SEC. 13. If, upon such hearing or trial, the issues are found in favor of the respondent, the proceedings shall be dismissed, and the respondent shall recover costs from the petitioning creditors in the same manner as on final judgment in civil actions.

15,514. Proceedings on default.

SEC. 14. If the debtor has failed to appear after service, personally or by publication, or is absent, or can not be found, the schedule and inventory may be prepared by the sheriff, or by the assignee, from the best information he can obtain.

ARTICLE IV.

ASSIGNEES.

15,515. Election of assignee—Bond.

SEC. 15. At a meeting of the creditors, in open court, those having proven their claims, by filing a verified statement showing the amount, nature, and security, if any, shall proceed to the election of one assignee. The assignee shall be a resident of the county where the insolvent resides, or where he has carried on his business. In electing an assignee, the opinion of the majority in amount of claims shall prevail. The clerk of the court shall keep a minute of the deliberations of said creditors, and of the election and appointment of an assignee, and enter the same upon the records of the court. The assignee shall file, within five days, unless the time be extended by the court, with the clerk, a bond, in an amount to be fixed by the court, to the State of California, with two or more sufficient sureties, approved by the court, and conditioned for the faithful performance of the duties devolving upon him. The bond shall not be void upon the first recovery, but may be sued upon from time to time by any creditor aggrieved, in his own name, until the whole penalty is exhausted. The sureties on such bond may be required to justify, upon the application of any party interested, in the same manner as bail upon arrest in civil cases.

Assignee, when appointed.

SEC. 16. If, on the day appointed for the meeting, the creditors do not attend, or refuse to elect an assignee; or if, after election, the assignee shall fail to qualify within the proper time, it shall be lawful for the court before which the said meeting may take place, to appoint an assignee and fix the amount of his bond.

15,516. Assignment.

SEC. 17. As soon as an assignee is appointed and qualified, the clerk of the court shall, by an instrument under his hand, and seal of the court, assign and convey to the assignee all the estate, real and personal, of the debtor,

with all his deeds, books, and papers relating thereto, and such assignment shall relate back to the commencement of the proceedings in insolvency, and by operation of law shall vest the title to all such property and estate, both real and personal, in the assignee, although the same is then attached on mesne process, as the property of the debtor, and shall dissolve any attachment made within one month next preceding the commencement of the insolvency proceedings. Such assignment shall operate to vest in the assignee all the estate of the insolvent debtor not exempt by law from execution.

Authority of assignee.

SEC. 18. The assignee shall have the right to recover all the estate, debts, and effects of said insolvent. If, at the time of the commencement of proceedings in insolvency, an action is pending in the name of the debtor, for the recovery of a debt or other thing which might or ought to pass to the assignee by the assignment, the assignee shall be allowed and admitted to prosecute the action, in like manner and with like effect as if it had been originally commenced by him. In suits prosecuted by the assignee, a certified copy of the assignment made to him shall be conclusive evidence of his authority to sue.

Recording assignment.

SEC. 19. The assignee shall, within one month after the making of the assignment to him, cause the same to be recorded in every county, or city and county, within this State, where any lands owned by the debtor are situated, and the record of such assignment, or a duly certified copy thereof, shall be conclusive evidence thereof in all courts.

Resignation of assignee.

SEC. 20. Any assignee may at any time, by writing filed in court, resign his appointment, having first settled his accounts, and delivered up all the estate to such successor as the court shall appoint; provided, that if, in the discretion of the court, the circumstances of the case require it, upon good cause being shown, the court may, at any time before such settlement of account and delivery of the estate shall have been completed, revoke the appointment of such assignee, and appoint another in his stead. The liability of the outgoing assignee, or of the sureties on his bond, shall not be in any manner discharged, released, or affected by such appointment of another in his stead.

15,517. Powers of assignee.

SEC. 21. The said assignee shall have power:

1. To sue in his own name and recover all the estate, debts, and things in action, belonging or due to such debtor, and no set-off or counter-claim shall be allowed in any such suit, for any debt, unless it was owing to such creditor by such debtor at the time of the adjudication of insolvency.

2. To take into his possession all the estate of such debtor, except property exempt by law from execution, whether attached or delivered to him or afterwards discovered, and all books, vouchers, evidence of indebtedness, and securities belonging to the same.

3. In case of a non-resident, absconding, or concealed debtor, to demand and receive of every sheriff who shall have attached any of the property of such debtor, or who shall have in his possession any moneys arising from the sale of such property, all such property and moneys, on paying him his lawful costs and charges for attaching and keeping the same.

4. From time to time to sell at public auction all the estate, real and per-

sonal, vested in him as such assignee, which shall come to his possession, and as ordered by the court.

5. On such sales to execute the necessary conveyances and bills of sale.

6. To redeem all valid mortgages and conditional contracts, and all valid pledges of personal property, and to satisfy any judgments which may be an incumbrance on any property sold by him, or to sell such property subject to such mortgage, contracts, pledges, or judgments.

7. To settle all matters and accounts between such debtor and his debtors subject to the approval of the court.

8. Under the order of the court appointing him, to compound with any person indebted to such debtor, and thereupon to discharge all demands against such person.

9. To have and recover from any person receiving a conveyance, gift, transfer, payment, or assignment, made contrary to any provision of this act, the property thereby transferred or assigned, or in case a redelivery of the property can not be had, to recover the value thereof, with damages for the detention.

15,518. *Delivery of books and papers.*

Sec. 22. The insolvent shall, either before or on the day appointed for the meeting of creditors, deliver to the court all the commercial or account books he may have kept, which books shall be deposited in the clerk's office of said court. Said insolvent shall also deliver to the court, at the same time, all vouchers, notes, bonds, bills, securities, or other evidences of debt, in any manner relating to or having any bearing upon or connection with the property surrendered by said debtor, and all such papers or securities shall be deposited in the clerk's office of said court, and the clerk shall hand them over, together with the books of the insolvent, to the assignee who may be appointed.

15,519. *Embezzlement.*

Sec. 23. If any person, before the assignment is made, having notice of the commencement of proceedings in insolvency, embezzles or disposes of any of the moneys, goods, chattels, or effects of the insolvent, he is chargeable therewith, and liable to an action by the assignee for double the value of the property so embezzled or disposed of, to be recovered for the benefit of the estate.

15,520. *Penalties, etc., against persons suspected of concealing, etc., property of debtor.*

Sec. 24. The same penalties, forfeitures, and proceedings by citation, examination, and commitment, shall apply on behalf of an assignee against persons suspected of having concealed, embezzled, conveyed away, or disposed of any property of the debtor, or of having possession or knowledge of any deeds, conveyances, bonds, contracts, or other writings which relate to any interest of the debtor in any real or personal estate, as provided in the case of the estates of deceased persons in sections one thousand four hundred and fifty-nine, one thousand four hundred and sixty, and one thousand four hundred and sixty-one of the Code of Civil Procedure.

15,521. *Estate to be converted into money—Private sales.*

Sec. 25. The assignee shall, as speedily as possible, convert the estate, real and personal, into money. He shall keep a regular account of all moneys received by him as assignee, to which every creditor or other person interested therein may, at all reasonable times, have access. No private sale of any property of the estate of an insolvent debtor shall be valid, unless made under

the order of the court upon a petition in writing, which shall set forth the facts showing the sale to be necessary. Upon filing the petition, notice of at least ten days shall be given by publication and mailing, in the same manner as is provided in section seven of this act. If it appears that a private sale is for the best interests of the estate, the court shall order it to be made.

15,522. *Sale of perishable property.*

SEC. 26. When it appears to the satisfaction of the court that the estate of the debtor, or any part thereof, is of a perishable nature, or is liable to deteriorate in value, or is disproportionately expensive to keep, the court may order the same to be sold in such manner as may be deemed most expedient, under the direction of the sheriff or assignee, as the case may be, who shall hold the funds received in place of the property sold until the further order of the court.

Outstanding debts.

SEC. 27. Outstanding debts, or other property due or belonging to the estate, which can not be collected and received by the assignee without unreasonable or inconvenient delay or expense, may be sold and assigned in like manner as the remainder of the estate.

Expenses for management of property—Commissions.

SEC. 28. Assignees shall be allowed all necessary expenses in the care, management, and settlement of the estate, and shall collectively be entitled to charge and receive for their services commissions upon all sums of money coming to their hands and accounted for by them, as follows: For the first thousand dollars, at the rate of seven per cent.; for all above that sum and not exceeding ten thousand dollars, at the rate of five per cent.; and for all above that sum, at the rate of four per cent.

15,523. *Accounts of assignee.*

SEC. 29. At the expiration of three months from the appointment of the assignee in any case, or as much earlier as the court may direct, the assignee shall exhibit to the court and to the creditors, and file just and true accounts of all his receipts and payments, verified by his oath, and a statement of the property outstanding, specifying the cause of its outstanding; also what debts or claims are yet undetermined, and stating what sum remains in his possession; and thereupon a dividend shall be made, unless for cause the court shall otherwise order. Thereafter, further accounts, statements, and dividends shall be made in like manner as often as occasion requires.

15,524. *Orders for accounts and distributions.*

SEC. 30. The court shall at any time, upon the motion of any two or more creditors, require the assignee to file his account, and if he has funds subject to distribution, he shall be required to distribute them without delay.

15,525. *Creditors to share pro rata.*

SEC. 31. All creditors whose debts are duly proved and allowed, shall be entitled to share in the property and estate pro rata, without priority or preference whatever, other than as provided in this act, and in section one thousand two hundred and four of the Code of Civil Procedure; provided, that any debt proved by any person liable as bail surety, guarantor, or otherwise, for the debtor, shall not be paid to the person so proving the same until satisfactory evidence shall be produced of the payment of such debt by such person so liable; and the share to which such debt would be entitled may be paid into

court, or otherwise held for the benefit of the party entitled thereto, as the court may direct.

15,526. *Dividends not to be disturbed for subsequently proved debts.*

SEC. 32. No dividend already declared shall be distributed [disturbed] by reason of debts being subsequently proved, but the creditors proving such debts shall be entitled to a dividend equal to those already received by the other creditors, before any further dividend is made to the latter; provided, the failure to prove such claim shall not have resulted from his own neglect.

15,527. *Discharge of assignee.*

SEC. 33. Should the assignee refuse or neglect to render his accounts as required by sections thirty and thirty-one, or pay over a dividend when he shall have, in the opinion of the court, sufficient funds for that purpose, the court shall immediately discharge such assignee from his trust, and shall have power to appoint another in his place. The assignee so discharged shall forthwith deliver over to the assignee appointed by the court, all the funds, property, books, vouchers, or securities belonging to the insolvent, without charging or retaining any commission or compensation for his personal services.

15,528. *Final account of assignee.*

SEC. 34. Preparatory to the final account and dividend the assignee shall submit his account to the court and file the same, and shall at the time of filing accompany the same with an affidavit, that notice by mail has been given to all creditors who have proved their claims; that he will apply for a settlement of his account, and for a discharge from all liability as assignee at a time specified in such notice, which time shall be not less than ten or more than twenty days from such filing. At the hearing the court shall audit the account, and any person interested may appear and file exceptions in writing, and contest the same. The court thereupon shall settle the account and order a dividend of any portion of the estate remaining undistributed, and shall discharge the assignee, subject to compliance with the order of the court, from all liability, as assignee to any creditor of the insolvent.

ARTICLE V.

PARTNERSHIPS AND CORPORATIONS.

15,529. *Insolvency of partnerships.*

SEC. 35. Two or more persons who are partners in business may be adjudged insolvent, either on the petition of such partners or any one of them, or on the petition of five or more creditors of the partnership, in which case an order shall be issued in the manner provided by this act, upon which all the joint stock and property of the partnership, and also all the separate estate of each of the partners shall be taken, excepting such parts thereof as may be exempt by law, and all the creditors of the company, and the separate creditors of each partner, shall be allowed to prove their respective debts; and the assignee shall be chosen by the creditors of the copartnership, and shall also keep separate accounts of the joint stock or property of the copartnership, and of the separate estate of each member thereof, and, after deducting out of the whole amount received by such assignee, the whole amount of the expenses and disbursements, the net proceeds of the joint stock shall be appropriated to pay the creditors of the copartnership, and the net proceeds of the separate estate of each partner shall be appropriated to pay his separate creditors; and if there shall be any balance of the separate estate of any partner, after the pay-

ment of his separate debts, such balance shall be added to the joint stock for the payment of the joint creditors; and if there shall be any balance of the joint stock, after the payment of the joint debts, such balance shall be divided and appropriated to and among the separate estate of the several partners according to their respective right and interest therein, and as it would have been if the partnership had been dissolved without any insolvency; and the sum so appropriated to the separate estate of each partner shall be applied to the payment of his separate debts, and the certificate of discharge shall be granted or refused to each partner as the same would or ought to be if the proceedings had been by or against him alone under this act; and in all other respects the proceedings as to partners shall be conducted in the like manner as if they had been commenced and prosecuted by or against one person alone. If such copartners reside in different counties, that court in which the petition is first filed shall retain exclusive jurisdiction over the case. If the petition be filed by less than all the partners of a copartnership, those partners who do not join in the petition shall be ordered to show cause why they should not be adjudged to be insolvent in the same manner as other debtors are required to show cause upon a creditor's petition, as in this act provided.

15,530. *Applicable to corporations.*

Sec. 36. The provisions of this act shall apply to corporations, and upon the petition of any officer of any corporation duly authorized by the vote of the board of directors or trustees, at a meeting specially called for that purpose, or by the assent in writing of a majority of the directors or trustees, as the case may be, or upon a creditor's petition made and presented in the manner provided in respect to debtors, the like proceedings shall be had and taken as are provided in the case of debtors. All the provisions of this act, which apply to the debtor, or set forth his duties, examination and liabilities, or prescribe penalties, or relate to fraudulent conveyances, payments, and assignments, apply to each and every officer of any corporation in relation to the same matters concerning the corporation. Whenever any corporation is declared insolvent, all its property and assets shall be distributed to the creditors; but no discharge shall be granted to any corporation.

ARTICLE VI.

PROOF OF DEBTS.

15,531. *All debts may be proved against debtor.*

Sec. 37. All debts due and payable from the debtor at the time of the adjudication of insolvency, and all debts then existing but not payable until a future time, a rebate of interest being made, when no interest is payable by the terms of the contract, may be proved against the estate of the debtor.

15,532. *Proof of demands for tortious acts.*

Sec. 38. All demands against the debtor for or on account of any goods or chattels wrongfully taken, converted, or withheld by him, may be proved and allowed as debts to the amount of the value of the property so withheld, from the time of the conversion.

Proof of demands against debtor, or indorser, surety, etc.

Sec. 39. If the debtor shall be bound as indorser, surety, bail, or guarantor, upon any bill, bond, note, or other specialty or contract, or for any debt of another person, and his liability shall not have become absolute until the adjudication of insolvency, the creditor may prove the same after such liability

shall have become fixed, and before the final dividend shall have been declared.

15,533. *Contingent liabilities.*

Sec. 40. In all cases of contingent debts, and contingent liabilities contracted by the debtor and not herein otherwise provided for, the creditor may make claim therefor and have his claim allowed, with the right to share in the dividends if the contingency shall happen before the order for the final dividend, or he may, at any time, apply to the court to have the present value of the debt or liability ascertained and liquidated, which shall be done in such manner as the court shall order, and shall be allowed to prove for the amount so ascertained.

15,534. *Person liable for debtor may prove debt, etc.*

Sec. 41. Any person liable as bail, surety, or guarantor, or otherwise, for the debtor who shall have paid the debt, or any part thereof, in discharge of the whole, shall be entitled to prove such debt, or to stand in the place of the creditor, if he shall have proved the same, although such payments shall have been made after the proceedings in insolvency were commenced; and any person so liable for the debtor, and who has not paid the whole of said debt, but is still liable for the same, or any part thereof, may, if the creditor shall fail or omit to prove such debt, prove the same in the name of the creditor.

15,535. *Rent and installment debts.*

Sec. 42. Where the debtor is liable to pay rent, or other debt falling due at fixed and stated periods, the creditor may prove, for a proportionate part thereof up to the time of the insolvency, as if the same became due from day to day, and not at such fixed and stated periods.

15,536. *Mutual credits—Set-offs and counter-claims.*

Sec. 43. In all cases of mutual debts and mutual credits between the parties, the account between them shall be stated, and one debt set off against the other, and the balance only shall be allowed and paid. But no set-off or counter-claim shall be allowed of a claim in its nature not provable against the estate; provided, that no set-off or counter claim shall be allowed in favor of any debtor to the insolvent of a claim purchased by or transferred to him after the filing of the petition by or against him, for the purpose of making such set-off or counter-claim.

15,537. *Mortgages and pledges against debtor.*

Sec. 44. When a creditor has a mortgage or pledge of real or personal property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, he shall be admitted as a creditor only for the balance of the debt, after deducting the value of such property, to be ascertained by agreement between him and the assignee, or by a sale thereof, to be made in such manner as the court shall direct; or the creditor may release or convey his claim to the assignee, upon such property, and be admitted to prove his whole debt. If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon, and in either case the assignee and creditor respectively shall execute all deeds and writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, the creditor shall not be allowed to prove any part of his debt.

15,538. Creditors proving claims to waive suits and rights of action.

SEC. 45. No creditor proving his debt or claim shall be allowed to maintain any suit at law or in equity therefor against the debtor, but shall be deemed to have waived all right of action and suit against him, and all proceedings already commenced, or unsatisfied judgments already obtained thereon, shall be deemed to be discharged and surrendered thereby; provided, that no valid lien existing in good faith thereunder shall be thereby affected; and further provided, that a creditor proving his debt or claim shall not be held to have waived his right of action or suit against the debtor where a discharge has been refused, or the proceedings have determined without a discharge. And no creditor whose debt is provable under this act shall be allowed, after the commencement of proceedings in insolvency, to prosecute to final judgment any action therefor against the debtor until the question of the debtor's discharge shall have been determined, and any such suit or proceeding shall, upon the application of the debtor, or any creditor, or of the assignee, be stayed to await the determination of the court in insolvency on the question of discharge; provided, there be no unreasonable delay on the part of the debtor, or of the petitioning creditors, as the case may be, in prosecuting the case to its conclusion; and provided, also, that if the amount due the creditor is in dispute, the suit, by leave of the court in insolvency, may proceed to judgment for the purpose of ascertaining the amount due, which amount may be proven in insolvency, but execution shall be stayed as aforesaid; provided further, that where a valid lien or attachment has been acquired or secured in any such action, and an undertaking been offered and accepted in lieu of such lien or attachment, the case may be prosecuted to final judgment for the purpose of fixing the liability of the sureties upon such undertaking; but execution against the insolvent upon such judgment shall be stayed.

15,539. Preferences.

SEC. 46. Any person who shall have accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this act, shall not prove the debt or claim, on account of which the preference was made or given; nor shall he receive any dividend thereon until he shall first have surrendered to the assignee all property, money, benefit, or advantage received by him under such preference.

15,540. Examination of debtor.

SEC. 47. The court may, upon the application of the assignee, or of any creditor of the debtor, or without any application, before or after adjudication in insolvency, examine upon oath the debtor in relation to his property and his estate, and any person tendering or making proof of claims, and may subpoena witnesses to give evidence relating to such matters. All examinations of witnesses shall be had and depositions shall be taken in accordance with and in the same manner as is provided by the Code of Civil Procedure.

ARTICLE VII.**DISCHARGE.****15,541. Petition for discharge—Notice to creditors.**

SEC. 48. At any time after the expiration of three months from the adjudication of insolvency, the debtor may apply to the court for a discharge from his debts, and the court shall thereupon order notice to be given to all creditors, who have proved their debts, to appear, on a day appointed for that purpose,

and show cause why a discharge should not be granted to the debtor; said notice shall be given by mail and by publication at least once a week, for four weeks, in a newspaper published in the county, or if there be none, in a newspaper published nearest such county; provided, that if no debts have been proven, such notice shall not be required.

Discharge, when not granted.

SEC. 49. No discharge shall be granted, or if granted shall be valid, if the debtor shall have sworn falsely in his affidavit annexed to his petition, schedule, or inventory, or upon any examination in the course of the proceedings in insolvency, in relation to any material fact concerning his estate, or his debts, or to any other material fact; or if he has concealed any part of his estate or effects, or any books or writings relating thereto; or if he has been guilty of fraud or willful neglect in the care, custody, or delivery to the assignee of the property belonging to him at the time of the presentation of his petition and inventory, excepting such property as he is permitted to retain under the provisions of this act, or if he has caused or permitted any loss or destruction thereof; or if, within one month before the commencement of such proceedings, he has procured his lands, goods, money, or chattels to be attached, or seized on execution; or if he has destroyed, mutilated, altered, or falsified any of his books, documents, papers, writings, or securities, or has made or been privy to the making of any false or fraudulent entry in any book of account or other document with intent to defraud his creditors; or if he has given any fraudulent preference contrary to the provisions of this act, or made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property, or has lost any part thereof in gaming, or has admitted a false or fictitious debt against his estate, or if, having knowledge that any person has proven such false or fictitious debt, he has not disclosed the same to his assignee within one month after such knowledge; or if being a merchant or tradesman he has not subsequently to the passage of this act, kept proper books of account; or if he or any other person on his account, or in his behalf, has influenced the action of any creditor at any stage of the proceedings, by any pecuniary consideration or obligation; or if he has in contemplation of becoming insolvent made any pledge, payment, transfer, assignment, or conveyance of any part of his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who is or may be under liability for him, or for the purpose of preventing the property from coming into the hands of the assignee, or of being distributed under this act in satisfaction of his debts; or if he has been convicted of any misdemeanor under this act, or has been guilty of fraud contrary to the true intent of this act; or in case of voluntary insolvency has received the benefits of this or any other act of insolvency or bankruptcy within three years next preceding his application for discharge. And before any discharge is granted, the debtor shall take and subscribe an oath to the effect that he has not done, suffered, or been privy to any act, matter, or thing specified in this act, as ground for withholding such discharge or as invalidating such discharge, if granted.

15,542. *Opposition to discharge.*

SEC. 50. Any creditor opposing the discharge of a debtor shall file specifications, in writing, of the grounds of his opposition, and after the debtor has filed and served his answer thereto, which pleadings shall be verified, the court shall try the issue or issues raised, with or without a jury, according to the practice provided by law in civil actions.

15,543. *Certificate of discharge.*

SEC. 51. If it shall appear to the court that the debtor has in all things conformed to his duty under this act, and that he is entitled under the provisions thereof to receive a discharge, the court shall grant him a discharge from all his debts, except as hereinafter provided, and shall give him a certificate thereof, under the seal of the court, in substance as follows: In the Superior Court of the County of —, State of California. Whereas, — has been duly adjudged an insolvent under the insolvent laws of this State, and appears to have conformed to all the requirements of law in that behalf, it is therefore ordered by the court that said — be forever discharged from all debts and claims, which by said insolvent laws are made provable against his estate, and which existed on the — day of —, on which the petition for adjudication was filed by (or against) him, excepting such debts, if any, as are by said insolvent laws excepted from the operation of a discharge in insolvency. Given under my hand, and the seal of the court, this — day of —, A. D. 18—. Attest, —, Clerk. [Seal.] —, Judge.

Fraudulent debts not discharged.

SEC. 52. No debt created by fraud or embezzlement of the debtor, or by his defalcations as a public officer, or while acting in a fiduciary character, shall be discharged under this act, but the debt may be proved, and the dividend thereon shall be a payment on account of said debt; and no discharge granted under this act shall release, discharge, or affect any person liable for the same debt for or with the debtor, either as partner, joint contractor, indorser, surety, or otherwise.

15,544. *Effect and operation of discharge.*

SEC. 53. A discharge, duly granted under this act, shall, with the exceptions aforesaid, release the debtor from all claims, debts, liabilities, and demands, set forth in his schedule, or which were or might have been proved against his estate in insolvency, and may be pleaded by a simple averment, that on the day of its date such discharge was granted to him, setting forth the same in full and the same shall be a complete bar to all suits brought on any such debts, claims, liabilities, or demands, and the certificate shall be prima facie evidence in favor of such fact, and of the regularity of such discharge; provided, however, that any creditor of said debtor, whose debt was proved, or provable, against the estate in insolvency, who shall see fit to contest the validity of such discharge on the ground that it was fraudulently obtained, and who has discovered the facts constituting the fraud subsequent to the discharge, may, at any time within two years after the date thereof, apply to the court which granted it to set aside and annul the same; or if the same shall have been pleaded, the effect thereof may be avoided collaterally upon any such grounds.

Refusal of discharge not to affect administration of estate.

SEC. 54. The refusal of a discharge to the debtor shall not affect the administration and distribution of his estate under the provisions of this act.

ARTICLE VIII.**FRAUDULENT PREFERENCES AND TRANSFERS.****15,545. *Fraudulent preferences and transfers.***

SEC. 55. If any person being insolvent, or in contemplation of insolvency, within one month before the filing of a petition by or against him, with a view to give a preference to any creditor or person having a claim against him, or

who is under any liability for him, procures any part of his property to be attached, sequestered, or seized on execution, or makes any payment, assignment, transfer, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, the person receiving such payment, pledge, assignment, transfer, or conveyance, or to be benefited thereby, or by such attachment or seizure, having reasonable cause to believe that such person is insolvent, and that such attachment, seizure, payment, pledge, conveyance, transfer, or assignment is made with a view to prevent his property from coming to his assignee in insolvency, or to prevent the same from being distributed ratably among his creditors, or to defeat the object of, or in any way hinder, impede, or delay the operation of, or to evade any of the provisions of this act, such transfer, payment, conveyance, pledge, or assignment is void, and the assignee may recover the property, or the value thereof, as assets of such insolvent debtor; and if such sale, assignment, transfer, or conveyance is not made in the usual and ordinary course of business of the debtor, that fact shall be *prima facie* evidence of fraud.

ARTICLE IX.

PENAL CLAUSES.

15,546. *Penal offenses—Punishment.*

SEC. 56. From and after the taking effect of this act, if any debtor or insolvent shall, after the commencement of proceedings in insolvency, secrete or conceal any property belonging to his estate, or part with, conceal, or destroy, alter, mutilate, or falsify, or cause to be concealed, destroyed, altered, mutilated, or falsified, any book, deed, document, or writing relating thereto, or remove, or cause to be removed, the same or any part thereof, with intent to prevent it from coming into the possession of the assignee in insolvency, or to hinder, impede, or delay his assignee in recovering or receiving the same, or make any payment, gift, sale, assignment, transfer, or conveyance of any property belonging to his estate, with like intent, or shall spend any part thereof in gaming; or shall, with intent to defraud, willfully and fraudulently conceal from his assignee, or fraudulently or designedly omit from his schedule any property or effects whatsoever; or if, in case of any person having to his knowledge or belief proved a false or fictitious debt against his estate, he shall fail to disclose the same to his assignee within one month after coming to the knowledge or belief thereof; or shall attempt to account for any of his property by fictitious losses or expenses; or shall, within three months before the commencement of proceedings in insolvency, under the false pretense of carrying on business and dealing in the ordinary course of trade, obtain on credit from any person any goods or chattels, with intent to defraud; or shall, with intent to defraud his creditors, within three months next before the commencement of proceedings in insolvency, pawn, pledge, or dispose of otherwise than by bona fide transactions in the ordinary way of his trade, any of his goods or chattels which have been obtained on credit and remain unpaid for, he shall be deemed guilty of misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for not less than three months nor more than two years.

ARTICLE X.

MISCELLANEOUS.

15,547. *Death of insolvent pending proceedings.*

SEC. 57. If any debtor shall die after the order of adjudication, the proceed-

ings shall be continued and concluded in like manner and with like validity and effect as if he had lived.

Statute of limitations, when not to run.

SEC. 58. Pending proceedings by or against any person, copartnership, or corporation, no statute of limitations of this State shall run against a claim, which in its nature is provable against the estate of the debtor.

Representation by attorney.

SEC. 59. Any creditor, at any stage in the proceedings, may be represented by his attorney or duly authorized agent.

Homesteads and exemptions.

SEC. 60. It shall be the duty of the court having jurisdiction of the proceedings, to exempt and set apart for the use and benefit of said insolvent such real and personal property as is by law exempt from execution; and also a homestead, in the manner as provided in section one thousand four hundred and sixty-five of the Code of Civil Procedure.

What deemed commencement of proceedings.

SEC. 61. The filing of the petition by or against a debtor upon which an order of adjudication in insolvency may be made by the court, shall be deemed to be the commencement of proceedings in insolvency under this act.

Certain words defined.

SEC. 62. Words used in this act in the singular, include the plural, and in the plural, the singular, and the word "debtor" includes partnerships and corporations.

Receivers.

SEC. 63. A receiver may be appointed by the court in which an insolvent proceeding is pending before the election of an assignee:

1. Upon the application of creditors where it is shown that the property, or any portion thereof, is in danger of being lost, removed, or materially injured.
2. In all other cases where receivers are appointed by the usages of courts of equity. And thereupon the appointment, oath, undertaking, and powers of such receiver shall, in all respects, be regulated by the general laws of the State applicable to receivers.

Contempts.

SEC. 64. All sections of the Code of Civil Procedure of the State of California relating to contempts, are hereby made applicable to all proceedings under this act. An appeal shall be allowed to the supreme court from any order adjudging any person guilty of contempt of court.

Attachment liens—Costs in contested matters.

SEC. 65. When an attachment has been made and is not dissolved before the commencement of proceedings in insolvency, or is dissolved by an undertaking given by the defendant, if the claim upon which the attachment suit was commenced is proved against the estate of the debtor, the plaintiff may prove the legal costs and disbursements of the suit, and of the keeping of the property, and the amount thereof shall be a preferred debt. In all contested matters in insolvency the court may, in its discretion, award costs to either party, to be paid by the other, or to either or both parties, to be paid out of the estate, as justice and equity may require. In awarding costs, the court may issue execution therefor. In all involuntary cases under this act, the court shall allow the petitioning creditors out of the estate of the debtor, if any adjudication of

insolvency be made, as a preferred claim, all legal costs and disbursements, incurred by them in that behalf.

Dismissals and discontinuances.

SEC. 66. The court may, upon the application of the debtor, if it be a voluntary petition, or of the petitioning creditors, if a creditor's petition, dismiss the petition and discontinue the proceedings at any time before the appointment of assignee. After the appointment of assignee, no dismissal shall be made without the consent of all parties interested in or affected thereby.

Appeals.

SEC. 67. An appeal may be taken to the supreme court in the following cases:

1. From an order granting or refusing an adjudication of insolvency.
2. Allowing or rejecting a creditor's claim, in whole or in part.
3. Overruling a motion for a new trial.
4. Settling an account of an assignee.
5. Against or in favor of setting apart homestead or other property claimed as exempt from execution.
6. Granting or refusing a discharge to the debtor.

The notice, undertaking, and procedure on appeal shall conform to the general laws of this State regulating appeals in civil cases, except that when the assignee has given an official undertaking and appeal from a judgment or order in insolvency, his official undertaking stands in the place of an undertaking on appeal, and the sureties therein are liable on such undertaking.

Repeal of conflicting acts.

SEC. 68. All acts and parts of acts in conflict with the provisions of this act are hereby repealed; provided, however, that such repeal shall in no manner invalidate or affect any case in insolvency instituted and pending in any court prior to the day when this act shall take effect.

Inyo County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,548.

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| Extending time for publishing delinquent tax list, 1877-8, 64. | To regulate traveling fees of sheriff and constables, 1877-8, 372. |
| Fixing salary of county treasurer, 1877-8, 157. | For distribution of school moneys, 1877-8, 747. |
| Fixing salary of assessor, 1877-8, 256. | |

Kern County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,562.

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| Extending time for publishing delinquent tax list, 1877-8, 64. | To determine right of parties in certain swamp and overflowed lands, 1877-8, 358. |
| As to office of county clerk, 1877-8, 104. | To regulate traveling fees of sheriff, 1877-8, 559. |
| Fixing salary of treasurer, 1877-8, 256. | To provide a new great register, 1877-8, 603. |

Lake County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,566.

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| Repealing act for destruction of certain wild animals, 1877-8, 2 | To prevent hogs running at large in Lakeport and Lower Lake, 1877-8, 435. |
| Authorizing issue of bonds to pay for Nichols School building, 1877-8, 60. | Authorizing tax for extermination of squirrels, 1877-8, 441. |
| Legislating acts of supervisors in relation Kelly Canyon Road, 1877-8, 219 | To prevent sheep and goats from being herded or running at large, 1877-8, 685. |
| Authorizing formation of a new school district, 1877-8, 254. | Amending act of 1874 for payment of certain bonds, 1880, 81 (San. ed. 312). |
| Amending act of March 21, 1876, concerning officers, fees, and salaries, 1877-8, 256. | Amending act of March 23, 1876, concerning payment of certain bonds, 1877-8, 322. |
| Declaring Clear Lake navigable, 1877-8, 630. | |

Passen County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,608.

Concerning hogs running at large, 1877-8, 640.

Concerning public roads, 1877-8, 641.

Regulating fees of justices of the peace, 1877-8, 683.

For removing obstructions to salmon in Pitt River,
1880, 104 (Ban. ed. 343).

Libraries and Reading Rooms.

An Act to establish free public libraries and reading rooms.

Approved April 26, 1880; 1880, 231 (Ban. ed. 524).

15,609. *Classification of cities for library purposes.*

SECTION 1. For the purposes of this act cities in this State are classified as follows:

1. Cities of less than one hundred thousand population.
2. Cities of more than one hundred thousand population.

Levy of tax.

SEC. 2. The municipal authorities of any incorporated city of this State are authorized and empowered by a resolution duly passed for that purpose to levy and collect, as in other cases, annually, a tax not to exceed one mill on the dollar for the purpose of establishing and maintaining in such city free public libraries and reading rooms, and purchasing such books, journals, and other publications, purchasing and leasing such real and personal property, and erecting such buildings as may be necessary therefor.

Library fund.

SEC. 3. All money and revenue paid, collected, or received by authority of anything herein contained, whether by taxation, gift, devise, bequest or otherwise, shall belong to and be known and designated as the "Library Fund," and shall be paid into the proper city treasury, and there kept separate and apart from other funds, and be drawn therefrom as hereinafter provided, but only to be used and applied to the purposes herein authorized.

Property, how vested.

SEC. 4. All property, real and personal, acquired by purchase, gift, devise, bequest, or otherwise, under the provisions of or for any purpose authorized by this act, shall vest, be, and remain in the proper city, and may be protected, defended, and sued for by action at law, or otherwise, in the name of such city as in other cases.

Trustees, how elected.

SEC. 5. In a city of less than one hundred thousand population five trustees shall be elected at the same time and in the same manner as the other town officers are elected. They shall hold office the same length of time to carry into effect the provisions of this act.

Trustees, appointment of.

SEC. 6. In a city of more than one hundred thousand population the mayor or chief executive officer, during his continuance in office, and eleven citizens thereof, to be appointed by the governor of this State, shall constitute the first board of trustees of any library or reading room established or acquired in such city under this act.

Office of trustee honorary.

SEC. 7. The office of trustee shall be honorary, without salary or other compensation, and shall continue during good behavior; but for good cause a

trustee may be removed from office by proceedings in the superior court in behalf of the proper city in manner provided for by the removal from office of other city officers.

Powers.

SEC. 8. The trustees of any library or reading room established or acquired by authority of this act, shall take charge of the same and of all real and personal property thereunto belonging, or that may be acquired by loan, purchase, gift, devise, or otherwise. They shall meet for business purposes on the first Tuesday of each month, and at such other times as they may appoint, at a place to be provided for the purpose, and a majority of all their number shall constitute a quorum for business. They may appoint one of their number to act as president of their board, and may elect a librarian. They shall also elect a secretary, who shall keep a full statement and account of all property, money receipts and expenditures, and a record and full minutes in writing of all their proceedings. The secretary may certify to such proceedings, or any part or portion thereof under his hand, verified by an official seal adopted and provided by the trustees for that purpose.

Further powers.

SEC. 9. Such trustees, by a majority vote of all their members, to be recorded in the minutes with the ayes and noes at length, shall have power:

First—To make and enforce all rules, regulations, and by-laws necessary for the administration, government, and protection of such library and reading room, and all property belonging thereto, or that may be loaned, devised, bequeathed, or donated to the same.

Second—To exercise and administer any trust declared or created for such library or reading room, and to provide memorial tablets and niches to perpetuate the memories of those persons who may make valuable donations thereto.

Third—To remove any trustee who may neglect to attend the meetings of the board of trustees, or who may absent himself from such meetings, or without the consent of the board from the State for three consecutive months; and to fill all vacancies that may from any cause occur in the board.

Fourth—To define the powers and describe the duties of any and all officers, determine the number, and elect all necessary subordinate officers and assistants, and at their pleasure remove any officer or assistant.

Fifth—To purchase necessary books, journals, publications, and other personal property.

Sixth—To order the drawing and payment, upon properly authenticated vouchers, duly certified by the president and secretary, of money from out of the library fund for any liability or expenditure herein authorized; and generally to do all that may be necessary to fully carry into effect the provisions of this act.

Seventh—To fix the salaries of the librarian, secretary, and other subordinate officers and assistants, and by and with the consent and approval of the legislative or other proper authority of the proper city, expressed by resolution duly passed, to purchase said real estate, erect and equip such buildings as may be necessary for such library and reading room.

Demands, how audited and paid.

SEC. 10. The orders and demands of the trustees of any such library or reading room of any city, when duly made and authenticated as above provided,

shall be verified and audited by the auditing officer, and paid by the treasurer of such city out of the library fund properly belonging thereto, of which full entry and record shall be kept as in other cases.

Report.

Sec. 11. The trustees of such library or reading room, on or before the first Monday of July of each year, shall make an annual report to the municipal authorities of their city, giving the condition of their trust, with full statements of all property and money received, whence derived, how used and expended; the number of books, journals; and other publications on hand, the number added by purchase, gift, or otherwise, during each year, the number lost or missing, the number and character of those loaned, and such other statistics, information, and suggestions as may be of general interest. A financial report showing all receipts and disbursements of money shall also be made by the secretary of the board of trustees, duly verified by his oath.

Municipal authorities to pass ordinances for protection, etc., of library.

Sec. 12. The proper municipal authorities of any city wherein a public library or reading room may be established, shall have power to pass ordinances for the protection of the same and all property thereto belonging, and for imposing penalties for the punishment of persons committing injury to such library or reading room, or the property or books thereof, or for failure to return any book or other property belonging thereto. They shall also have power, by a resolution duly passed for such purpose, to grant, donate, or authorize the use of either, in whole or in part, any land, square, or real estate belonging to such city or town, or dedicated to public use therein, for the purpose of erecting and maintaining a building to be used only for a public library and reading room as herein authorized.

"City" or "cities" defined.

Sec. 13. The words "city" or "cities" wherever used in this act are intended to and shall include all incorporated cities and towns, and cities and counties with consolidated government, and shall be construed accordingly.

Repeal—Transfer of property.

Sec. 14. An Act entitled "An Act to establish and maintain free public libraries and reading rooms," approved March the eighteenth, eighteen hundred and seventy-eight, is hereby repealed. All libraries and reading rooms heretofore established by authority of the last mentioned act in any city or town, or city and county, and all property, real and personal thereto belonging, shall be turned over to the charge, custody, and administration of such trustees as may be continued or appointed therein respectively under the provisions of this act, with like powers and liabilities as if such library had been established under this act.

Sec. 15. This act shall take effect on the first day of May, A. D. eighteen hundred and eighty.

[As to supreme court library and San Francisco law library, see ante, 2313.]

Piquor.

15,614.

An Act relating to the intoxication of officers.

Approved April 15, 1880; 1880, 77 (San. ed. 265).

[This act is given in full, ante, 13,177.]

An Act to prohibit the sale of intoxicating liquors in the State capitol building.

Approved April, 16, 1880; 1880, 80 (Ban. ed. 273).

Prohibiting the sale of liquors in State capitol building.

SECTION 1. Any person or persons having in charge or control the State capitol building, and allowing the same, or any portion thereof, to be used for the sale or distribution in any manner, for profit, of any malt or spirituous liquors, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one thousand dollars.

SEC. 2. This act shall take effect immediately after its passage.

Logs.

15,617.

An Act to establish a scale for the measurement of logs.

Approved March, 28, 1878; 1877-8, 604.

One standard of measurement.

SECTION 1. There shall be but one standard for the measurement of logs throughout this State.

Standard for measurement of logs.

SEC. 2. The following table, known as Spaulding's Table for the measurement of logs, is hereby made the standard and table for the measurement of logs throughout this State, to wit:

TABLE.

Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....
12	10	38	12	38	798	12	66	2,467	12	94	5,085	13	35	729
12	11	47	12	39	843	12	67	2,545	12	95	5,192	13	36	772
12	12	58	12	40	889	12	68	2,625	12	96	5,300	13	37	817
12	13	71	12	41	936	12	69	2,706	13	10	41	13	38	864
12	14	86	12	42	984	12	70	2,789	13	11	51	13	39	913
12	15	103	12	43	1,033	12	71	2,874	13	12	62	13	40	963
12	16	121	12	44	1,086	12	72	2,960	13	13	76	13	41	1,014
12	17	141	12	45	1,134	12	73	3,047	13	14	93	13	42	1,066
12	18	162	12	46	1,186	12	74	3,135	13	15	111	13	43	1,119
12	19	184	12	47	1,239	12	75	3,224	13	16	131	13	44	1,176
12	20	207	12	48	1,293	12	76	3,314	13	17	152	13	45	1,228
12	21	231	12	49	1,348	12	77	3,405	13	18	175	13	46	1,284
12	22	256	12	50	1,404	12	78	3,497	13	19	199	13	47	1,342
12	23	282	12	51	1,461	12	79	3,590	13	20	224	13	48	1,400
12	24	309	12	52	1,519	12	80	3,634	13	21	250	13	49	1,460
12	25	337	12	53	1,578	12	81	3,779	13	22	277	13	50	1,521
12	26	366	12	54	1,638	12	82	3,874	13	23	305	13	51	1,582
12	27	396	12	55	1,700	12	83	3,970	13	24	334	13	52	1,645
12	28	427	12	56	1,763	12	84	4,067	13	25	365	13	53	1,709
12	29	459	12	57	1,827	12	85	4,165	13	26	396	13	54	1,774
12	30	492	12	58	1,893	12	86	4,264	13	27	429	13	55	1,841
12	31	526	12	59	1,960	12	87	4,364	13	28	462	13	56	1,909
12	32	561	12	60	2,028	12	88	4,465	13	29	497	13	57	1,979
12	33	597	12	61	2,098	12	89	4,566	13	30	533	13	58	2,050
12	34	634	12	62	2,169	12	90	4,668	13	31	569	13	59	2,123
12	35	673	12	63	2,241	12	91	4,771	13	32	607	13	60	2,197
12	36	713	12	64	2,315	12	92	4,875	13	33	646	13	61	2,272
12	37	755	12	65	2,390	12	93	4,980	13	34	686	13	62	2,349

Length—feet.....	Diameter—Inches.	Contents—feet....	Length—feet.....	Diameter—Inches.	Contents—feet....	Length—feet.....	Diameter—Inches.	Contents—feet....	Length—feet.....	Diameter—Inches.	Contents—feet....
13	63	2,427	14	30	574	14	84	4,745	15	51	1,826
13	64	2,507	14	31	613	14	85	4,859	15	52	1,898
13	65	2,589	14	32	654	14	86	4,974	15	53	1,972
13	66	2,672	14	33	696	14	87	5,091	15	54	2,047
13	67	2,757	14	34	739	14	88	5,209	15	55	2,125
13	68	2,843	14	35	785	14	89	5,327	15	56	2,203
13	69	2,931	14	36	831	14	90	5,446	15	57	2,283
13	70	3,021	14	37	880	14	91	5,566	15	58	2,366
13	71	3,113	14	38	931	14	92	5,687	15	59	2,450
13	72	3,206	14	39	983	14	93	5,810	15	60	2,535
13	73	3,301	14	40	1,037	14	94	5,932	15	61	2,622
13	74	3,396	14	41	1,092	14	95	6,057	15	62	2,711
13	75	3,492	14	42	1,148	14	96	6,183	15	63	2,801
13	76	3,590	14	43	1,205	15	10	47	15	64	2,893
13	77	3,688	14	44	1,267	15	11	59	15	65	2,987
13	78	3,788	14	45	1,323	15	12	72	15	66	3,083
13	79	3,889	14	46	1,383	15	13	88	15	67	3,181
13	80	3,991	14	47	1,445	15	14	107	15	68	3,281
13	81	4,094	14	48	1,508	15	15	128	15	69	3,382
13	82	4,196	14	49	1,572	15	16	151	15	70	3,486
13	83	4,301	14	50	1,638	15	17	176	15	71	3,592
13	84	4,406	14	51	1,704	15	18	202	15	72	3,700
13	85	4,512	14	52	1,772	15	19	230	15	73	3,809
13	86	4,619	14	53	1,841	15	20	258	15	74	3,919
13	87	4,727	14	54	1,911	15	21	288	15	75	4,030
13	88	4,837	14	55	1,983	15	22	320	15	76	4,142
13	89	4,946	14	56	2,056	15	23	352	15	77	4,256
13	90	5,057	14	57	2,131	15	24	387	15	78	4,371
13	91	5,168	14	58	2,208	15	25	421	15	79	4,487
13	92	5,281	14	59	2,286	15	26	457	15	80	4,605
13	93	5,395	14	60	2,366	15	27	495	15	81	4,723
13	94	5,508	14	61	2,447	15	28	533	15	82	4,842
13	95	5,624	14	62	2,530	15	29	573	15	83	4,962
13	96	5,741	14	63	2,614	15	30	615	15	84	5,084
14	10	44	14	64	2,700	15	31	657	15	85	5,206
14	11	55	14	65	2,789	15	32	701	15	86	5,330
14	12	67	14	66	2,878	15	33	746	15	87	5,455
14	13	82	14	67	2,969	15	34	792	15	88	5,581
14	14	100	14	68	3,062	15	35	841	15	89	5,707
14	15	120	14	69	3,157	15	36	891	15	90	5,835
14	16	141	14	70	3,253	15	37	943	15	91	5,964
14	17	164	14	71	3,353	15	38	997	15	92	6,094
14	18	189	14	72	3,453	15	39	1,053	15	93	6,225
14	19	214	14	73	3,555	15	40	1,111	15	94	6,356
14	20	241	14	74	3,657	15	41	1,170	15	95	6,490
14	21	269	14	75	3,761	15	42	1,230	15	96	6,625
14	22	298	14	76	3,866	15	43	1,291	16	10	50
14	23	329	14	77	3,972	15	44	1,357	16	11	63
14	24	360	14	78	4,080	15	45	1,417	16	12	77
14	25	393	14	79	4,188	15	46	1,482	16	13	94
14	26	427	14	80	4,298	15	47	1,548	16	14	114
14	27	462	14	81	4,408	15	48	1,616	16	15	137
14	28	498	14	82	4,519	15	49	1,685	16	16	161
14	29	535	14	83	4,631	15	50	1,755	16	17	188

Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....	Length—feet	Diameter—Inches.	Contents—feet.....
16 72	3,946	17 39	1,194	17 93	7,055	18 60	3,042	19 27	627		
16 73	4,062	17 40	1,259	17 94	7,203	18 61	3,147	19 28	676		
16 74	4,180	17 41	1,326	17 95	7,355	18 62	3,253	19 29	726		
16 75	4,298	17 42	1,394	17 96	7,508	18 63	3,361	19 30	779		
16 76	4,418	17 43	1,463	18 10	57	18 64	3,472	19 31	832		
16 77	4,540	17 44	1,538	18 11	70	18 65	3,585	19 32	888		
16 78	4,663	17 45	1,606	18 12	87	18 66	3,700	19 33	945		
16 79	4,786	17 46	1,680	18 13	106	18 67	3,817	19 34	1,003		
16 80	4,912	17 47	1,755	18 14	129	18 68	3,937	19 35	1,065		
16 81	5,038	17 48	1,831	18 15	154	18 69	4,059	19 36	1,128		
16 82	5,165	17 49	1,909	18 16	181	18 70	4,183	19 37	1,195		
16 83	5,293	17 50	1,989	18 17	211	18 71	4,311	19 38	1,263		
16 84	5,423	17 51	2,069	18 18	243	18 72	4,440	19 39	1,334		
16 85	5,553	17 52	2,151	18 19	276	18 73	4,570	19 40	1,407		
16 86	5,685	17 53	2,235	18 20	310	18 74	4,702	19 41	1,482		
16 87	5,818	17 54	2,320	18 21	346	18 75	4,836	19 42	1,558		
16 88	5,953	17 55	2,408	18 22	384	18 76	4,970	19 43	1,635		
16 89	6,088	17 56	2,497	18 23	423	18 77	5,107	19 44	1,719		
16 90	6,224	17 57	2,588	18 24	463	18 78	5,245	19 45	1,795		
16 91	6,361	17 58	2,681	18 25	505	18 79	5,385	19 46	1,877		
16 92	6,500	17 59	2,776	18 26	549	18 80	5,526	19 47	1,961		
16 93	6,640	17 60	2,873	18 27	594	18 81	5,668	19 48	2,047		
16 94	6,780	17 61	2,972	18 28	640	18 82	5,811	19 49	2,134		
16 95	6,922	17 62	3,072	18 29	688	18 83	5,955	19 50	2,223		
16 96	7,066	17 63	3,174	18 30	738	18 84	6,101	19 51	2,313		
17 10	53	17 64	3,279	18 31	789	18 85	6,247	19 52	2,405		
17 11	67	17 65	3,385	18 32	841	18 86	6,396	19 53	2,498		
17 12	82	17 66	3,494	18 33	895	18 87	6,546	19 54	2,593		
17 13	100	17 67	3,605	18 34	951	18 88	6,697	19 55	2,691		
17 14	121	17 68	3,718	18 35	1,009	18 89	6,849	19 56	2,791		
17 15	145	17 69	3,833	18 36	1,069	18 90	7,002	19 57	2,892		
17 16	171	17 70	3,951	18 37	1,132	18 91	7,156	19 58	2,997		
17 17	199	17 71	4,071	18 38	1,197	18 92	7,312	19 59	3,103		
17 18	229	17 72	4,193	18 39	1,264	18 93	7,470	19 60	3,211		
17 19	260	17 73	4,316	18 40	1,333	18 94	7,627	19 61	3,321		
17 20	293	17 74	4,441	18 41	1,404	18 95	7,788	19 62	3,434		
17 21	327	17 75	4,567	18 42	1,476	18 96	7,950	19 63	3,548		
17 22	362	17 76	4,694	18 43	1,549	19 10	60	19 64	3,665		
17 23	399	17 77	4,823	18 44	1,629	19 11	74	19 65	3,784		
17 24	437	17 78	4,954	18 45	1,701	19 12	91	19 66	3,906		
17 25	477	17 79	5,085	18 46	1,779	19 13	112	19 67	4,029		
17 26	518	17 80	5,219	18 47	1,858	19 14	136	19 68	4,156		
17 27	561	17 81	5,353	18 48	1,939	19 15	163	19 69	4,284		
17 28	604	17 82	5,488	18 49	2,022	19 16	191	19 70	4,415		
17 29	650	17 83	5,624	18 50	2,106	19 17	223	19 71	4,550		
17 30	697	17 84	5,762	18 51	2,191	19 18	256	19 72	4,686		
17 31	745	17 85	5,900	18 52	2,278	19 19	291	19 73	4,824		
17 32	794	17 86	6,040	18 53	2,367	19 20	327	19 74	4,964		
17 33	845	17 87	6,182	18 54	2,457	19 21	365	19 75	5,104		
17 34	898	17 88	6,325	18 55	2,550	19 22	405	19 76	5,246		
17 35	953	17 89	6,468	18 56	2,644	19 23	446	19 77	5,391		
17 36	1,010	17 90	6,613	18 57	2,740	19 24	489	19 78	5,537		
17 37	1,069	17 91	6,759	18 58	2,839	19 25	533	19 79	5,684		
17 38	1,130	17 92	6,906	18 59	2,940	19 26	579	19 80	5,833		

Content--feet....	Diameter--Inches.	Length--feet.....	Content--feet....	Diameter--Inches.	Length--feet.....	Content--feet....	Diameter--Inches.	Length--feet.....	Content--feet....	Diameter--Inches.	Length--feet.....	Content--feet....	Diameter--Inches.	Length--feet.....
3,718	60	22	4,735	69	21	180	15	21	4,880	70	21	2,155	48	20
3,846	61	22	5,029	71	21	211	16	21	5,180	72	21	2,246	49	20
3,976	62	22	69	72	21	246	17	21				2,340	50	20
4,108	63	22	86		21	283	18	21				2,435	51	20
4,244	64	22	106	10	22	322	19	21				2,531	52	20
4,381	65	22	130	11	22	362	20	21				2,630	53	20
4,522	66	22	157	12	22	404	21	21				2,730	54	20
4,665	67	22	188	13	22	448	22	21				2,833	55	20
4,812	68	22	221	14	22	493	23	21				2,938	56	20
4,961	69	22	258	15	22	540	24	21				3,045	57	20
5,113	70	22	297	16	22	589	25	21				3,155	58	20
5,269	71	22	337	17	22	640	26	21				3,266	59	20
5,426	72	22	379	18	22	693	27	21				3,380	60	20
72	73	23	423	19	22	747	28	21				3,496	61	20
90	74	23	469	20	22	803	29	21				3,615	62	20
111	75	23	517	21	22	861	30	21				3,735	63	20
136	76	23	566	22	22	920	31	21				3,858	64	20
164	77	23	617	23	22	981	32	21				3,983	65	20
197	78	23	671	24	22	1,044	33	21				4,111	66	20
231	79	23	726	25	22	1,109	34	21				4,241	67	20
270	80	23	782	26	22	1,177	35	21				4,375	68	20
310	81	23	841	27	22	1,247	36	21				4,510	69	20
352	82	23	902	28	22	1,321	37	21				4,648	70	20
396	83	23	964	29	22	1,397	38	21				4,790	71	20
442	84	23	1,028	30	22	1,475	39	21				4,933	72	20
490	85	23	1,094	31	22	1,555	40	21				5,078	73	20
540	86	23	1,162	32	22	1,638	41	21				5,225	74	20
592	87	23	1,233	33	22	1,722	42	21				5,372	75	20
645	88	23	1,307	34	22	1,807	43	21				5,522	76	20
701	89	23	1,384	35	22	1,900	44	21				5,675	77	20
759	90	23	1,463	36	22	1,984	45	21				5,829	78	20
818	91	23	1,545	37	22	2,075	46	21				5,983	79	20
879	92	23	1,629	38	22	2,168	47	21				6,140	80	20
943	93	23	1,716	39	22	2,262	48	21				6,298	81	20
1,008	94	23	1,804	40	22	2,385	49	21				6,456	82	20
1,075	95	23	1,893	41	22	2,457	50	21				6,616	83	20
1,144	96	23	1,991	42	22	2,556	51	21				6,778	84	20
1,215	97	23	2,079	43	22	2,657	52	21				6,941	85	20
1,289	98	23	2,174	44	22	2,761	53	21				7,106	86	20
1,366	99	23	2,271	45	22	2,866	54	21				7,273	87	20
1,447	100	23	2,370	46	22	2,974	55	21				7,441	88	20
1,529	101	23	2,470	47	22	3,085	56	21				7,610	89	20
1,703	102	23	2,574	48	22	3,197	57	21				7,780	90	20
1,794	103	23	2,678	49	22	3,312	58	21				7,951	91	20
1,886	104	23	2,784	50	22	3,429	59	21				8,125	92	20
1,979	105	23	2,893	51	22	3,549	60	21				8,300	93	20
2,081	106	23	3,003	52	22	3,671	61	21				8,475	94	20
2,173	107	23	3,116	53	22	3,795	62	21				8,653	95	20
2,273	108	23	3,232	54	22	3,921	63	21				8,833	96	20
2,374	109	23	3,349	55	22	4,051	64	21				66	10	21
2,478	110	23	3,470	56	22	4,182	65	21				82	11	21
2,582	111	23	3,592	57	22	4,316	66	21				101	12	21
2,691	112	23		58	22	4,453	67	21				124	13	21
	113	23		59	22	4,593	68	21				150	14	21

Length—feet....	Diameter—Inches.	Contents—feet....	Length—feet....	Diameter—Inches.	Contents—feet....	Length—feet....	Diameter—Inches.	Contents—feet....	Length—feet....	Diameter—Inches.	Contents—feet....	Length—feet....	Diameter—Inches.	Contents—feet....
23 51	2,800	23 68	5,031	24 22	512	24 39	1,686	24 56	3,526					
23 52	2,911	23 69	5,186	24 23	564	24 40	1,778	24 57	3,654					
23 53	3,024	23 70	5,345	24 24	618	24 41	1,872	24 58	3,786					
23 54	3,139	23 71	5,508	24 25	674	24 42	1,968	24 59	3,920					
23 55	3,258	23 72	5,673	24 26	732	24 43	2,066	24 60	4,056					
23 56	3,379	24 10	76	24 27	792	24 44	2,172	24 61	4,196					
23 57	3,501	24 11	94	24 28	854	24 45	2,268	24 62	4,338					
23 58	3,628	24 12	116	24 29	918	24 46	2,372	24 63	4,482					
23 59	3,756	24 13	142	24 30	984	24 47	2,478	24 64	4,630					
23 60	3,887	24 14	172	24 31	1,052	24 48	2,586	24 65	4,780					
23 61	4,021	24 15	206	24 32	1,122	24 49	2,696	24 66	4,934					
23 62	4,157	24 16	242	24 33	1,194	24 50	2,808	24 67	5,090					
23 63	4,295	24 17	282	24 34	1,268	24 51	2,922	24 68	5,250					
23 64	4,437	24 18	324	24 35	1,346	24 52	3,038	24 69	5,412					
23 65	4,580	24 19	368	24 36	1,426	24 53	3,156	24 70	5,578					
23 66	4,728	24 20	414	24 37	1,510	24 54	3,276	24 71	5,748					
23 67	4,877	24 21	462	24 38	1,596	24 55	3,400	24 72	5,920					

Logs of greater length.

SEC. 3. For the measurement of logs of any greater length than indicated in the table set forth in section two of this act, the computation shall be made in accordance with table.

Logs, how measured.

SEC. 4. All logs shall be measured at the small end and inside the bark, and the contents computed according to section two of this act. [*Amendment, approved April 16, 1880; 1880, 119 (Ban. ed. 384); took effect from passage.*]

Allowance made for rot or defect.

SEC. 5. Allowance shall be made for rot, shake, or other defect in logs measured by this scale and under the provisions of this act, so as to make the survey express the actual quantity of merchantable lumber in each log.

SEC. 6. This act shall take effect immediately.

An Act giving a lien to loggers and laborers, employed in logging camps, upon the logs cut and hauled by the persons who employ them.

Approved March 30, 1878; 1877-8, 747.

[This act is given in full, ante, 11,206.]

An Act for the scaling of logs in the County of Humboldt.

Approved March 30, 1878; 1877-8, 779.

[This act provided for the appointment, by the board of supervisors of Humboldt county, of three or more surveyors of logs in that county; who were to survey and measure logs according to a system indicated in the act.]

Los Angeles County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,618.

Relative to highways, 1877-8, 6.
Legalizing incorporation of Anaheim, 1877-8, 27.
Repealing act of April 3, 1876, creating board of public works, 1877-8, 48.

Ratifying acts and proceedings of council of Los Angeles City, 1877-8, 74.
Legalizing assessment book and delinquent list, 1877-8, 108.

To protect agriculture and distrain trespassing animals, 1877-8, 164.
 For relief of George C. Knox, 1877-8, 181.
 As to artesian wells, 1877-8, 195.
 To incorporate Town of Anaheim, 1877-8, 309.
 Regulating irrigation in Los Nietos Township, 1877-8, 374.
 Authorizing Los Angeles City to issue bonds for improving water supply, 1877-8, 387.
 For building school house in Anaheim School District, 1877-8, 390.
 For widening and extending Los Angeles Street in Los Angeles City, 1877-8, 419.

To regulate fees and salaries, 1877-8, 574.
 Revising charter of City of Los Angeles, 1877-8, 642.
 Relative to highways, 1877-8, 716.
 For extermination of squirrels, 1877-8, 787.
 To pay claim of John S. Griffin, 1877-8, 817.
 Ratifying contract with Los Angeles City Water Company, 1877-8, 849.
 Concerning the trespassing of animals on private lands, 1877-8, 878.
 Repealing act of 1878, for extermination of squirrels, 1880, 7 (Ban. ed. 14).
 Repealing act of 1872, for destruction of squirrels, etc., 1880, 106 (Ban. ed. 344).

Marin County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,622.

For relief of Julius Blume, 1877-8, 105.
 Fixing amount of tax collector's bond, 1877-8, 196.
 Levying of special tax for construction of wagon road, 1877-8, 381.

For election of road overseers, 1877-8, 544.
 To pay F. Kuhnle for arresting A. Ygera, 1877-8, 696.
 Amending act incorporating Town of San Rafael, 1877-8, 767.

Mariposa County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,625.

To employ special counsel in certain murder cases, 1877-8, 1.
 Extending time for publishing delinquent tax list, 1877-8, 64.
 Amending act of March 31, 1876, concerning roads and highways, 1877-8, 277.

For improvement of Yosemite Valley and Mariposa Big Tree Grove, 1877-8, 929.
 For management of Yosemite Valley and Mariposa Big Tree Grove, 1880, 44 (Ban. ed. 205).

Medicine.

15,629.

An Act to regulate the practice of medicine in the State of California.

Approved April 3, 1876; 1875-6, 792.

[The above entitled act was amended in 1878 as follows:]

Persons practicing medicine and surgery to present diploma to board.

SECTION 1. Every person in this State practicing medicine or surgery, in any of its departments, shall possess the qualifications required by this act. Every such person shall present his diploma to one of the boards of examiners herein named, together with the affidavit mentioned in section three (3) of this act. If the board shall find all the facts required to be stated in said affidavit to be true, the board of examiners shall issue its certificate to that effect, signed by all the members thereof, and sealed with the seal of the board, and such certificate shall be conclusive as to the right of the person named therein to practice medicine and surgery in any part of this State. [*Amendment, became a law and took effect April 1, 1878; 1877-8, 918.*]

Board of examiners appointed by what.

Sec. 2. The Medical Society of the State of California, the Eclectic Medical Society of the State of California, and the California State Homeopathic Medical Society, corporations organized and existing under and by virtue of the laws of this State, and no other corporation, society, persons or person, shall appoint annually a board of examiners, consisting of seven members, who shall hold their office for one year and until their successors shall be chosen. The examiners so appointed shall go before a district or county judge and make oath that they are regular graduates, and that they will faithfully perform the duties of their office. Vacancies occurring in a board of examiners shall be filled by the society appointing it, by the selection of alternates, or otherwise. The board of examiners now organized, or existing under and by virtue of their ap-

pointments by the aforesaid societies, shall continue to act as such boards until their successors are appointed at the next annual election. [*Amendment, became a law and took effect April 1, 1878; 1877-8, 918.*]

Board to examine diplomas.

SEC. 4. Said board of examiners shall examine diplomas as to their genuineness, and if the diploma shall be found genuine, as represented, the secretary of the board of examiners shall receive a fee of five dollars from each graduate or licentiate, and no further charge shall be made to the applicant, but if it be found to be fraudulent, or not lawfully owned by the possessor, the board shall be entitled to charge and collect twenty dollars of the applicant presenting such diploma. The applicant shall accompany his diploma with an affidavit stating that he is the lawful possessor of the same, that he is the person therein named, that the diploma was procured in the regular course of medical instruction, and without fraud or misrepresentation of any kind, and that the medical institution granting the diploma had, at the time of the granting the same, a full corps of medical instructors, and was at the said time a legally incorporated institution, actually and in good faith engaged in the business of medical education, and in good standing as a medical institution, and that the applicant had complied with all the requirements of said institution. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit, the board of examiners may hear such further testimony as in their discretion they may deem proper to hear, as to the verification of any such diploma, or as to the identity of the person named therein, or as to the manner in which any such diploma was procured, and if it should appear from such testimony that any fact stated in said affidavit is untrue, the application of such person for a certificate shall be rejected. None of said boards shall entertain an application which has been rejected by another of said boards, nor shall any rejected application be renewed until at least one year after the action of the board rejecting the same. [*Amendment, became a law and took effect April 1, 1878; 1877-8, 918.*]

15,630. *Refusal of certificates for unprofessional conduct.*

SEC. 10. The board of examiners must refuse certificates to individuals guilty of unprofessional conduct. But before any such refusal the applicant must be cited by a citation signed by the secretary of the board, and sealed with its seal, to appear before the board at a time and place certain for the purpose of being heard as to such unprofessional conduct. Said citation shall notify the applicant of the time and place, where and when the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall then and there appear in person, and attended with such witnesses to testify on his behalf as he may desire, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas issued by the secretary of the board under its seal; and said secretary shall in no case refuse to issue any such subpoena on a fee of fifty cents being paid to him for each subpoena. Said citations and said subpoenas shall be served in accordance with existing provisions of law as to the service of citations and subpoenas generally. At such hearing witnesses shall be examined on the part of the board and on the part of the applicant as to the fact of the applicant having been guilty of the conduct set out in the citation, and either side may examine medi-

cal experts as to whether such conduct is unprofessional, and if it appear to the satisfaction of the board that the applicant is guilty of the said unprofessional conduct, no certificate shall be issued to him. But no application shall be refused on the ground of unprofessional conduct, unless the applicant has been guilty of unprofessional conduct within one year next preceding his application. If any holder of a certificate be guilty of unprofessional conduct, his certificate must be revoked by the board granting it; but no such revocation shall be valid without said holder being cited to appear, and the same proceedings be had as is hereinbefore provided in this section in the case of refusal to grant a certificate. Whenever a certificate is revoked, the secretary of the board revoking the same shall certify the fact, under the seal of the board, to the county clerk of the county in which the person whose certificate has been revoked is at the time of said revocation practicing his profession, and said clerk shall thereupon write on the margin, or across the face of his register of the certificate of such person, the fact of such revocation, signing his name thereto, and shall file in his office said certificate of revocation. Each of said boards may, from time to time, adopt such rules as may be necessary to the orderly conduct of all proceedings taken and had before it. It shall be the duty of the secretary of the respective boards to notify the secretary of all other boards provided for under this act of all applicants to whom licenses may have been refused, together with the reasons of such refusal by such boards. [*Amendment, became a law and took effect April 1, 1878; 1877-8, 919.*]

Practice of medicine defined.

SEC. 11. Any person shall be regarded as practicing medicine, within the meaning of this act, who shall profess publicly to be a physician, or who shall habitually prescribe for the sick, or who shall append to his name the letters "M. D.;" but nothing herein contained shall be construed to prohibit gratuitous services in cases of emergency. And this act, and the act to which this act is supplemental and amendatory, shall not apply to lawfully commissioned surgeons of the United States army or navy practicing their profession within the limits of this State. [*Amendment, became a law and took effect April 1, 1878; 1877-8, 919.*]

License imposed on certain persons.

SEC. 12. Any itinerant vender who shall sell, or offer for sale, any drug, nostrum, ointment, or appliance of any kind intended for the treatment of disease or injury, or any person who shall, by writing or printing, or by any other method, publicly profess to cure or treat disease, injury, or deformity by any medicine, drug or drugs, nostrum, manipulation, or other expedient, shall pay a license of one hundred dollars a month. Such license shall be collected as other licenses are. [*Amendment, became a law and took effect April 1, 1878; 1877-8, 919.*]

An Act supplemental to, amendatory of an act entitled "An Act to regulate the practice of medicine in the State of California," approved April 3, 1876.

Became a law and took effect April 1, 1878; 1877-8, 918.

[The first six sections consist of the amendment to sections 1, 2, 4, 10, 11, and 12 of the act named in the title and above given. The following are supplemental sections:]

Misdemeanor.

SEC. 7. Any person practicing medicine or surgery in this State, without first having procured a certificate to so practice from one of the boards of examiners appointed by one of the societies mentioned in section two of this act, shall

be deemed guilty of a misdemeanor, and shall be subject to the penalties provided in section thirteen of the act to which this act is amendatory and supplemental, but no person who holds a certificate from one of such boards of examiners, or who holds a certificate heretofore granted by the board of examiners heretofore existing by virtue of appointment by the California State Medical Society of Homeopathic Practitioners, shall be compelled to procure a new certificate. And all powers and privileges of said boards of examiners, under the act to which this act is supplemental and amendatory, are hereby transferred to the boards of examiners created by this act.

Misdemeanor.

SEC. 8. Any person assuming to act as a member of a board of examiners, under this act or under the act to which this act is supplemental and amendatory, or who shall sign, or subscribe, or issue, or cause to be issued, or seal, or caused to be sealed, a certificate authorizing any person to practice medicine or surgery in this State, except the person so acting and doing be appointed by one of the societies mentioned in section two of this act, or be authorized so to do by a board of examiners appointed by one of said societies, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars, or by imprisonment in the county jail for a period of not less than thirty nor more than three hundred and sixty-five days, or by both such fine and imprisonment.

Certain certificates made null.

SEC. 9. Should either of the said boards issue a certificate to any person whose application for a certificate has been previously rejected by another of the said boards, within one year after the rejection of said application, then in such case the certificate issued as aforesaid to said rejected applicant shall be null and void and of no effect.

Examination of applicants to practice medicine.

SEC. 10. If any person not a graduate or licentiate of medicine has been unable to present himself for examination to any of said boards, as provided in section one of this act, then and in such case it shall be lawful for either of said boards, on good cause shown why said person was unable so as to present himself for examination, to examine such person touching his qualifications to practice medicine or surgery, and if said examination shall be satisfactory to the board, it shall thereupon issue its certificate in accordance with the facts, and the lawful holder thereof shall be entitled to all the rights and privileges of graduates or licentiates to whom certificates have been issued under this act and the act to which this act is amendatory and supplementary, but no such examination shall be had after the expiration of sixty days from the time this act shall take effect.

SEC. 11. This act shall be in effect from and after its passage.

PHARMACY.

[An Act to regulate the practice of pharmacy in the City and County of San Francisco, approved March 28, 1872; 1871-2, 681; amended March 31, 1876; 1875-6, 583, was still further amended by act of March 30, 1878; 1877-8, 838.]

An Act to regulate the sale of certain poisonous substances.

Approved April 16, 1880; 1880, 102 (San. ed.) 341.

15,631. *Poisonous substances, how sold.*

SECTION 1. It shall be unlawful for any person to retail any of the substances poisonous, and by reason thereof dangerous to human life, without distinctly labeling the bottle, box, vessel, or package, and the wrapper or cover thereof in which such substance is contained, with the common or usual name thereof, together with the word "Poison," and the name and place of business of the seller. Nor shall it be lawful for any person to retail any of the substances enumerated in either of said schedules, to any person, unless, on due inquiry, it is found that the person receiving the same is aware of its poisonous character, and that it is to be used for a legitimate purpose.

Same retailed.

SEC. 2. It shall be unlawful for any person to retail any of the substances enumerated herein, unless, before delivering the same, such person shall make, or cause to be made, in a book kept for that purpose only, an entry stating the date of the sale, the name and address of the purchaser, the name and quantity of the substance sold, the purpose for which it is stated by the purchaser to be required, and the name of the dispenser. The book required by this act shall be always open to inspection by the proper authorities. It shall also be the duty of the person dispensing any of the substances enumerated in either of said schedules, to ascertain by due inquiry, whether the name and address given by the person receiving the same are his true name and address, and for that purpose may require such person to be identified.

Misdemeanor—Penalty.

SEC. 3. Any person who shall dispense any of the substances enumerated in either of said schedules, without complying with the regulations herein prescribed, shall, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment; provided, that nothing in this act shall be so construed as to apply to the prescriptions of any physician authorized to practice medicine under the laws of this State.

SEC. 4. This act shall take effect and be in force from and after June first, eighteen hundred and eighty.

SCHEDULE "A."

List of poisons.

Arsenic, corrosive, sublimate, hydrocyanic acid, cyanite of potassium, strychnia, essential oil of bitter almonds, opium, aconite, belladonna, conium, nuxvomica, henbane, tansy, savin, ergot, cotton root, digitalis, chloroform, chloral hydrate, and all preparations, compounds, salts, extracts, or tinctures of such substances, except preparations of opium containing less than two grains to the fluid ounce.

SCHEDULE "B."

List of poisons.

White precipitate, red precipitate, red and green iodides of mercury, colchicum, cantharides, oxalic acid, croton oil, sulphate of zinc, sugar of lead, carbolic acid, sulphuric acid, muriatic acid, nitric acid, phosphorus, and all preparations, compounds, salts, extracts, or tinctures of such substances.

Mendocino County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,632.

Repealing act for destruction of certain wild animals, 1877-8, 2.

For sale of certain road and bridge bonds, 1877-8, 71.

Repealing act relating to herding of sheep, 1877-8, 19.

Fixing salary of county recorder, 1877-8, 183.

For issuing bonds for road and bridge purposes, 1877-8, 566.

For construction of bridges, 1877-8, 749, 851.

For election of supervisors, 1877-8, 1021.

Amending act for funding indebtedness, 1877-8, 1022.

Merced County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,635.

Extending time for publishing delinquent tax list 1877-8, 64.

Regulating salaries of assessor and sheriff, 1877-8, 107.

Regulating salary of district attorney, 1877-8, 137.

Concerning trespassing animals, 1877-8, 176.

To protect Merced City against fire, 1877-8, 214.

Amending act of February 18, 1874, for building school house in Merced School District, 1877-8, 353.

Granting G. E. Isaacs right to supply Town of Merced with fresh water, 1877-8, 354.

Creating "West Side Irrigation District," 1877-8, 468.

To provide a new great register, 1877-8, 698.

Regulating collection of poll tax, 1877-8, 837.

For payment of indebtedness of Snelling School District, 1877-8, 844.

Fixing terms of county and probate courts, 1877-8, 848.

Repealing act for destruction of squirrels, etc., 1880, 106 (Ban. ed. 344).

Mining Bureau.

[An act imposing a tax on the issue of certificates of stock corporations, approved April 1, 1878; 1877-8, 955, which is referred to in the following act, will be found given in full, ante, 5327.]

An Act to provide for the establishment and maintenance of a mining bureau.

Approved April 16, 1880; 1880, 115 (Ban. ed. 373).

15,651. Mining bureau.

SECTION 1. There shall be and is hereby established in this State a mining bureau, the principal office of which shall be maintained in the City of San Francisco, at which place there shall be collected by the State mineralogist, and preserved for study and reference, specimens of all the geological and mineralogical substances, including mineral waters, found in this State, especially those possessing economic or commercial value, which specimens shall be marked, arranged, classified, and described, and a record thereof preserved, showing the character thereof, and the place from whence obtained. The State mineralogist shall also, as he has opportunity and means, collect, and in like manner preserve at said office, minerals, rocks, and fossils of other States, Territories, and countries, and the collections so made shall at all reasonable hours be open to public inspection, examination, and study.

State mineralogist—Term—Salary.

SEC. 2. It shall be the duty of the governor to appoint a citizen of this State having a practical and scientific knowledge of mining and mineralogy to the office of State mineralogist, to hold his said office for the term of four years, or until the appointment and qualification of his successor, who shall take and subscribe the oath of office prescribed by the constitution, and who shall receive for his services a salary of three thousand dollars per annum, to be paid as other officers of the State are paid, and shall also receive his necessary traveling expenses when traveling on the business of his office, to be allowed and audited by the State board of examiners, the whole to be paid out of the mining bureau fund hereinafter provided for, and not otherwise.

Duties.

SEC. 3. In addition to the collection, classification, arranging, and preserva-

tion of specimens, as provided in the first section of this act, it shall be the duty of the State mineralogist to make analytical assays as required; and when the funds of the mining bureau are sufficient therefor, to provide and maintain a library of works on mineralogy, geology, and mining; to arrange in cases such specimens as he may collect; to procure and preserve models and drawings of mining machinery, and of milling machinery used in the reduction of ores; to correspond with established schools of mining and metallurgy, and obtain and preserve for public inspection and use such information respecting improvements in mining and mining machinery as will be of practical value to the people of this State; to visit the several mining districts of each county of the State, from time to time, ascertain and record their history, describe their geological formation and altitudes, the character of the mines and ores, and the general development of the district. At the close of each year he shall make a report in detail to the governor, showing the amount of disbursements of the bureau under his charge, the number of specimens collected, and giving such statistical information in reference to mines and mining as shall be deemed important.

Assistants, when may be appointed.

SEC. 4. The State mineralogist may, from time to time and as the funds in the mining bureau fund will permit, appoint such assistants as he may deem necessary and proper for the carrying out of the objects of this act, and the efficient provision and maintenance of a bureau of mining information and statistics, and may procure and maintain the necessary rooms and furniture for the office and the uses of the bureau in San Francisco; but the entire expenses of the bureau for salaries, assistance, rents, furniture, fuel, and all other things pertaining to the bureau, must not in any one year be greater than can be paid out of the mining bureau fund herein provided for.

Fund, how provided.

SEC. 5. For the purpose of establishing a fund for the maintenance of said mining bureau, it shall be the duty of the tax collectors in the several counties in this State, and of the license collector of the City and County of San Francisco, on the second Monday in January, April, July, and October, in each year, to transmit by express to the State treasurer all moneys collected by them from mining corporations, or from corporations formed for milling ores, or for supplying water for mining purposes, under or by virtue of the act entitled "An Act imposing a tax on the issue of certificates of stock corporations," approved April first, eighteen hundred and seventy-eight, and to forward to the State controller by mail a certificate showing the amount of money so forwarded to the State treasurer, and the date when the same was transmitted, and also showing the names of the several corporations from which the same was received, and the amount received from each. The State treasurer shall receive the amounts so transmitted, and give duplicate receipts therefor, one of which shall be filed with the State controller, and the other shall be returned by mail, or return express, to the collector from whom the money was received; and after paying out of the money so received the charges for the transmission thereof, the amount of which shall be noted on the receipt filed with the State controller, he shall retain the remainder in his hands as a separate fund, to be known as the mining bureau fund, to be used only in payment of drafts made for the expenses of the mining bureau established under this act, and out of which all the expenses of said bureau shall be paid.

Duties of tax collectors and license collector of San Francisco.

Sec. 6. Such tax collectors and license collector shall hereafter be required to pay into the county treasuries of their respective counties only that portion of the moneys collected by them under the act of the legislature mentioned in the last preceding section, which is collected from corporations other than those mentioned in section five of this act.

Sec. 7. This act shall take effect and be in force from and after its passage.

Modoc County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,654.

Concerning hogs in Adin Township, 1877-8, 111.
Regulating fees and salaries, 1877-8, 140, 464.
To restrict herding of sheep to certain pastures, 1877-8, 241.

For erection of county clerk's office, 1877-8, 326.
Fixing terms of county and probate courts, 1877-8, 452.
For removing obstructions to salmon in Pitt River, 1880, 104 (Ban. ed. 343).

Mono County.

REFERENCES TO SPECIAL AND LOCAL ACTS

15,658.

Authorizing issue of bonds for wagon road from Antelope Valley to Town of Benton, 1877-8, 394.
For improvements of public roads, 1877-8, 438.

For distribution of school moneys, 1877-8, 746.
To provide additional judge for superior court, 1880, 99 (Ban. ed. 335).

Monterey County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,662.

Providing for court house and jail, 1877-8, 28, 1034.
Fixing supervisorial districts, 1877-8, 320.
For relief of J. B. Scott, 1877-8, 394.
Validating copies of certain records, 1877-8, 736.
For opening a highway and building a bridge across

Salinas River, 1877-8, 832.
Relating to fees and salaries of county officers, 1877-8, 863.
Concerning roads and highways, 1877-8, 998.

Napa County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,665.

Authorizing supervisors to transfer a certain land, 1877-8, 560.
Amending act regulating fees and salaries, (sheriff), 1877-8, 561.
Authorizing supervisors to pay certain claims, 1877-8, 568.
Repealing act for destruction of squirrels, gophers, etc., 1877-8, 569.
To provide for building court house, offices and jail, 1877-8, 569.

Amending act of March 31, 1866, relating to public roads, 1877-8, 775.
Amending incorporation act of Town of St. Helena, 1877-8, 791.
Amending acts for reincorporation of Napa City, 1877-8, 1011.
Providing for establishment and maintenance of public roads, 1877-8, 1024.
Repealing act of 1873 for destruction of squirrels, etc., 1880, 105 (Ban. ed. 344).

Nevada County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,668.

Authorizing supervisors to remove certain human remains, 1877-8, 104.
Amending Grass Valley incorporation act, 1877-8, 192.
Legalizing State and county tax and assessments for 1877-8, 1877-8, 197.
Amending acts incorporating City of Nevada, 1877-8, 221.
Amending act of March 21, 1872, relating to public roads, 1877-8, 279.

Relating to public roads (amending act of March 21, 1872), 1877-8, 364.
Authorizing trustees of Truckee School District to pay certain claims, 1877-8, 452.
Regulating salaries of certain officers, 1877-8, 551.
To provide a new real register, 1877-8, 693.
For construction of railroad from Truckee to Tahoe City, 1877-8, 698.
For preservation of fish in Lake Bigler, 1877-8, 746.

Orphans.

An Act in relation to the care of orphan and abandoned children.

Approved March 7, 1874; 1874-4, 297.

[This act was amended in 1878 as follows:]

15,677. *Duty of managers of orphan asylums.*

SECTION 1. It shall be the duty of the officers or managers of each and every orphan asylum in this State to publish in January, April, July, and October, in each year, in some newspaper of general circulation published in the county where such asylum is situated, a notice giving:

1. The name, if known;
2. The age, as near as may be;
3. The sex; and

4. Such other descriptions as would lead to identification of each child received into such asylum, either as an orphan or an abandoned child, since the last quarterly publication of a like notice.

Such notice must be published at least four times, if in a weekly, and at least ten times consecutively if published in a daily newspaper. [*Amendment, approved February 15, 1878; 1877-8, 82; took effect from passage.*]

An Act to authorize the managers of orphan asylums to give their consent to the adoption of certain children under their care.

Approved April 1, 1878; 1877-8, 983.

[This act is given in full, ante, 5265.]

An Act to appropriate money for the support of orphans, half orphans, and abandoned children.

Approved March 25, 1880; 1880, 13 (Ban. ed. 48).

15,681. *Appropriation.*

SECTION 1. There is hereby appropriated out of any money in the State treasury not otherwise appropriated, to each and every institution in this State conducted for the support and maintenance of minor orphans, half orphans, or abandoned children, and to each and every county, city and county, city, or town maintaining such orphans, half orphans, or abandoned children, or any or all of such classes of persons, aid as follows: For each whole orphan supported and maintained in any such institution, the sum of one hundred dollars per annum; for each half orphan supported and maintained in any such institution, the sum of seventy-five dollars per annum; for each abandoned child supported and maintained in any such institution, the sum of seventy-five dollars per annum; provided, such abandoned child shall have been an inmate thereof for one year prior to receiving any support as provided in this act.

How paid.

SEC. 2. The aid herein granted shall commence on the first Monday in July, eighteen hundred and eighty, and shall be paid in semi-annual installments, commencing on the first Monday in January, eighteen hundred and eighty-one.

Books to be kept.

SEC. 3. *First*—It shall be the duty of every institution entitled to aid under this act to keep a book in which shall be entered the date of admission, name, age, sex, and place of birth, of each and every orphan, half orphan, and abandoned child, who is and may hereafter be received or admitted in such institu-

tion, and the date of discharge of any such child, when such discharge is made, the parentage, if known, the estate, if any, to which the child is heir, and the insurance, if any, on father's or mother's life, so far as can be ascertained, the place where either parent or both died, nativity of the parents, where married, the marriage certificate, where recorded, when they came to California, or Nevada, place of residence in California, and habits of sobriety.

Second—Every such institution shall also keep a book entitled Monthly Accounts. In it shall be entered, on the debtor side, all the moneys received from any and all sources, segregated under the proper heads; on the credit side shall be entered all disbursements made, specifying for what purposes made, and the amount entered in detail so disbursed, segregated under their proper heads.

Third—A pay-roll shall also be kept of the employes, and the amounts disbursed to each.

Fourth—Every such institution shall also keep a book in which shall be entered in detail the amounts paid for the specific support of any orphan, half orphan, or abandoned child, and the date of such payments.

Fifth—A transcript of the books and pay-roll, verified under oath by the manager or person in charge of such institution entitled to or claiming State aid under this act, shall be made and forwarded to the State board of examiners at the time of making demand or presenting claim for State aid, covering the time for which such claim or demand for State aid is made.

Sixth—Also, a list of all the inmates other than employes or orphans supported wholly or in part by any institution presenting a claim for State aid under this act shall be forwarded with such claim for aid.

Seventh—These books shall be open at all times to the inspection of the State board of examiners, or by any person authorized by them to examine the same, or by any committee of the legislature, or clerk thereof, duly authorized so to do.

State board of examiners to inquire into management.

Sec. 4. The State board of examiners are authorized, in behalf of the State, at any time to inquire, either in person or by authorized agent, into the management of any such institution; and any institution refusing upon due demand to permit such inquiry, shall not thereafter receive any aid under this act. All expenses incurred in visiting said asylums shall be audited and allowed by the State board of examiners out of the appropriations for the support of orphans, half orphans, and abandoned children.

Claims to be audited and allowed, what to contain.

Sec. 5. Every claim for aid under this act shall be presented to and audited and allowed by the State board of examiners. Such claim shall contain:

1. The name and location of the institution making the claim.
2. The name of the person or persons having charge or control thereof.
3. The number of orphans, half orphans, or abandoned children therein.
4. The date of admission and age of each.
5. The amount, if any, that the institution is receiving for the specific support of any orphan, half orphan, or abandoned child therein.

Such claim, and the statements therein contained, shall be verified by the oath of the person or persons, or some of them, in charge of such institution, and the board of examiners may, in their discretion, require the production of the books of such institution in support of such claim.

Controller and treasurer, duties of.

Sec. 6. If such claim be audited and allowed, in whole or in part, by said board, it shall be the duty of the controller to draw his warrant for the amount thereof in favor of the person or persons in charge of such institutions, and it shall be the duty of the treasurer to pay the same on presentation.

Number of inmates necessary to claim support.

Sec. 7. In order that the provisions of this act shall not be abused, it is hereby declared:

1. That no institution which has less than twenty inmates of either or all of the classes mentioned in section one hereof, shall be deemed an institution for the support and maintenance of minor orphans, half orphans, or abandoned children, within the intent and meaning of this act.

2. That no child over the age of fourteen years shall be deemed a minor orphan, half orphan, or abandoned child, within the intent and meaning of this act.

3. That no child for whose specific support there is paid to any such institution the sum of ten dollars or more per month shall be deemed a minor orphan, half orphan, or abandoned child, within the intent and meaning of this act.

Appropriation, how expended.

Sec. 8. No money appropriated by the State to any institution claiming aid under this act shall be expended either in improvements or in the erection of new buildings by such institutions.

Placer County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,696.

- | | |
|---|---|
| Repealing act for destruction of certain wild animals, 1877-8, 2. | Reimbursing county for expenses in collecting State taxes, 1877-8, 331. |
| Concerning hogs and goats in Rocklin Precinct, 1877-8, 85. | Concerning hogs running at large, 1877-8, 640. |
| Concerning roads and highways, 1877-8, 115. | For construction of railroad from Tahoe City to Truckee, 1877-8, 698. |
| Regulating powers of supervisors (employment of attorney), 1877-8, 197. | Organizing a levee district (Bear River District No. 1), 1877-8, 732. |
| Regulating fees of county recorder, 1877-8, 263. | For preservation of fish in Lake Bigler, 1877-8, 746. |
| Respecting the county hospital, 1877-8, 297. | |

Plumas County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,700.

- | | |
|---|--|
| To provide for payment of certain road bonds, 1877-8, 67. | In relation to certain officers and their compensation, 1877-8, 547. |
| For construction of wagon road from Mohawk Valley to Sardine Creek in Sierra County, 1877-8, 453. | Concerning hogs running at large, 1877-8, 640. |

Poisons.

[See "Medicine," ante, 15,630.]

Prison of State.

15,718.

[In addition to the legislation in reference to the State prison, given in the Penal Code, ante, 14,595, the following acts may be referred to:

An Act to provide for the completion of the branch State prison at Folsom, approved April 1, 1878; 1877-8, 884.

An Act to provide for the speedy completion of the branch State prison at Folsom, approved April 12, 1880; 1880, 39 (Ban. ed. 191).]

Sacramento County and City.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,750.

- To pay claim of C. H. Krebs for paving Tenth Street between L and N, 1877-8, 47.
 Conferring additional powers on board of levee commissioners of city, 1877-8, 73.
 To pay claims of Sacramento County, 1877-8, 86.
 Relating to county assessor, 1877-8, 87.
 Providing for the election of attorney for city, 1877-8, 173.
 Concerning trespassing animals, 1877-8, 176.
 Amending acts for government of county, 1877-8, 287.
 For better collection of water rates in Sacramento City, 1877-8, 369.
 Ratifying Reclamation District No. 54, 1877-8, 530.
 Establishing Reclamation District No. 252, 1877-8, 531.
 Creating Reclamation District No. 316, 1877-8, 562.
 Amending act of March 21, 1868, for grading alleys and constructing sewers, 1877-8, 578.
 Amending act incorporating city, 1877-8, 590.
 Transferring part of Sutter Island from one school district to another, 1877-8, 591.
 For protection of roads on Sherman Island, 1877-8, 601.
 Relative to city board of trustees, 1877-8, 639.
 Conferring further powers on trustees of Sacramento City (stagnant water), 1877-8, 640.
 For drainage and protection of city from overflow, 1877-8, 852.
 To organize Levee District No. 1 and provide for its government, 1877-8, 853.
 For completion of Branch State Prison at Folsom, 1877-8, 984.
 In relation to certain swamp land (Reclamation District No. 254), 1877-8, 909.
 Creating Reclamation District No. 205, 1877-8, 911.
 Providing for improvement of State Capitol grounds, 1877-8, 913.
 Relative to board of supervisors, 1877-8, 913.
 Appropriating five thousand dollars to Howard Benevolent Society, 1877-8, 956.
 To create Sacramento River Drainage District, 1877-8, 987.
 Repealing act creating Reclamation District No. 205, 1880, 25 (Ban. ed. 130).
 To pay balance for stone walls about capitol grounds, 1880, 37 (Ban. ed. 188).
 For completion of Branch State Prison at Folsom, 1880, 39 (Ban. ed. 191).
 To pay deficiency for improvement of Capitol grounds, 1880, 60 (Ban. ed. 233).
 Amending act of 1878 organizing Levee District No. 1, 1880, 65 (Ban. ed. 241).
 Prohibiting sale of liquor in State Capitol, 1880, 80 (Ban. ed. 273).
 For improvement of L Street in front of Capitol grounds, 1880, 105 (Ban. ed. 344).
 To pay certain claims against Swamp Land District No. 257, 1880, 117 (Ban. ed. 383).

San Benito County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,758.

- Making trespass act of March 23, 1876, applicable, 1877-8, 49.
 Extending time for publishing delinquent tax list, 1877-8, 64.
 Concerning licenses, 1877-8, 272.
 Concerning roads and highways, 1877-8, 273.

San Bernardino County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,761.

- Concerning salaries and fees, 1877-8, 80.
 Authorizing trespassing animals, 1877-8, 177.
 Regulating bee keeping, 1877-8, 563.
 Authorizing construction of wagon roads (to timber on San Bernardino Mountains), 1877-8, 566.
 Dividing county into supervisor districts and providing for supervisors, 1877-8, 799.
 Repealing act of 1872 for destruction of squirrels, etc., 1880, 105 (Ban. ed. 344).

San Diego County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,764.

- Relating to roads and highways, 1877-8, 50.
 To deputy county clerks, 1877-8, 108.
 Relating to fees and salaries, 1877-8, 128.
 Amending act to prevent trespassing of animals, 1877-8, 245.
 Authorizing supervisors to transfer certain funds, 1877-8, 267.
 Authorizing treasurer to pay certain warrants out of contingent fund, 1877-8, 440.
 Funding certain indebtedness, 1877-8, 540.

San Francisco City and County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,768.

- For improvement of Golden Gate Park, 1877-8, 5.
 Authorizing appropriations for expenses of fire department and house of correction, 1877-8, 47.
 For improvement of Lobos Square, 1877-8, 70.
 Authorizing appropriations for improving public parks, and cleaning streets, 1877-8, 78.
 Supplementary to act for completion of new City Hall, 1877-8, 82.
 Regulating and limiting payment of money out of treasury, 1877-8, 111, 333.
 Amending street law, as to superintendent of streets and deputies, 1877-8, 139.
 As to publication of advertisements for bids, 1877-8, 200.
 Conferring additional powers on supervisors (as to Seventh street, etc.), 1877-8, 231.
 Amending act to establish a training ship, 1877-8, 233.
 Concerning water front, 1877-8, 264.
 Increasing appropriation for support of hospital and almshouse, 1877-8, 280.
 To regulate registration of voters, and secure purity of elections, 1877-8, 299.
 To establish a free public library and reading-room, 1877-8, 329.
 Ratifying and confirming order No. 1404 of board of supervisors, 1877-8, 338.
 Amending act for completion of new City Hall, 1877-8, 382.

Conferring further powers on new City Hall commissioners, 1877-8, 427.
 To facilitate collection of licenses, 1877-8, 442.
 Authorizing various appropriations, 1877-8, 556.
 To establish a Free Dispensary, 1877-8, 579.
 Authorizing various appropriations, 1877-8, 597.
 To pay national guard for military duty, 1877-8, 696.
 To provide for deficiency in street department fund, 1877-8, 828.
 Conferring further powers on supervisors (expenses of various kinds), 1877-8, 828.
 For increasing, appointing, regulating, and paying police force, 1877-8, 879, 965.
 For draining Washerwoman's Lagoon, 1877-8, 943.
 Relating to house of correction, 1877-8, 963.
 For issue of bonds to relieve necessities of school department, 1877-8, 987.

For improvement of certain public reservations, 1877-8, 986.
 To repeal act of March 27, 1876, in relation to public water works, 1880, 1 (Ban. ed. 1).
 Repealing act relating to inspector of steam boilers, 1880, 8 (Ban. ed. 28).
 Repealing act for keeping clerk's office open on election days, 1880, 18 (Ban. ed. 62).
 Amending act of 1870, concerning the law library, 1880, 40 (Ban. ed. 194).
 Repealing act of April 1, 1878, conferring further powers on supervisors, 1880, 76 (Ban. ed. 264).
 For a notary at the Presidio, 1880, 106 (Ban. ed. 345).
 For extension of water front line and sea-wall, 1880, 132 (Ban. ed. 398).

15,769. CORPORATIONS, COMPANIES, SOCIETIES, AND FRANCHISES.

Granting certain privileges to North Beach and Mission Railroad Company, 1877-8, 278.

Authorizing Odd Fellows to lease a lot of land, 1877-8, 561.

15,770. COURTS AND JUDGES.

Amending act creating the city criminal court, 1877-8, 696.
 To further define judicial districts (adding to each a court-room in new City Hall), 1877-8, 831.

Creating Twentieth Judicial District, 1877-8, 944.
 Defining Twelfth Judicial District, 1877-8, 944.
 Creating Municipal Court of Appeals, 1877-8, 947.
 Amending law library act, 1880, 40 (Ban. ed. 194).

15,771. FIRE DEPARTMENT AND FIREMEN.

Authorizing payment of expenses of fire department for 1877-8, 1877-8, 47.

To reorganize paid fire department, 1877-8, 686.

15,772. FUNDING ACTS AND FUNDS.

Regulating and limiting payment of money out of treasury, 1877-8, 111, 333.

Providing for deficiency in street department fund, 1877-8, 828.

15,773. INSPECTION LAWS.

Repealing act for inspection of steam boilers, 1880, 8 (Ban. ed. 28).

15,774. LAND ACTS, LANDS, AND TITLES.

Confirming water front line, 1877-8, 263.
 Confirming title to certain lots on water front (between Pacific and Jackson streets), 1877-8, 417.

For extension of water front line and sea-wall, 1880, 132 (Ban. ed. 398).

15,775. OFFICERS, SALARIES, AND FEES.

Authorizing district attorney to appoint second assistant, 1877-8, 70.
 Amending act of February 28, 1859, relating to police contingent fund, 1877-8, 106.
 Concerning superintendent of streets and deputies, 1877-8, 139.
 Relating to assessor's deputies and their salaries, 1877-8, 173.
 To regulate registration of voters and secure purity of elections, 1877-8, 299.
 Relating to office of sheriff, 1877-8, 355.

Providing for payment of certain salaries out of "Special Fee Fund," 1877-8, 630.
 For increasing, appointing, regulating, and paying police force, 1877-8, 879, 965.
 In relation to House of Correction, 1877-8, 953.
 Fixing salary of mayor's clerk, 1877-8, 1029.
 Repealing act for inspection of steam boilers, 1880, 8 (Ban. ed. 28).
 Repealing act for keeping clerk's office open on election days, 1880, 18 (Ban. ed. 62).
 For a notary at the Presidio, 1880, 106 (Ban. ed. 345).

15,776. PERSONAL MATTERS AND CLAIMS.

For payment of claims of Sheldon and Graves for removing Pacific Street Wharf, 1877-8, 77.
 For relief of John Bierden and others from a certain bail bond, 1877-8, 138.
 For relief of Cook, Talcott and Onderdonk (as to Market Street slips), 1877-8, 193.
 For relief of E. C. Kirby and J. Burke from a certain bail bond, 1877-8, 194.
 To pay damages done to St. Francis' Church property by change of grades, 1877-8, 234.
 Ratifying a certain contract (with J. F. Swift), 1877-8, 259.

For relief of Joseph O'Neill, 1877-8, 321.
 For relief of S. L. Marks and others from a certain bail bond, 1877-8, 341.
 To pay claims of H. W. Seale and others, 1877-8, 356.
 Releasing Wong Sing and Wong Mow from certain bail bond, 1877-8, 425.
 For relief of Henry F. Williams, 1877-8, 801.
 For relief of A. D. Splivalo and others from a certain bail bond, 1877-8, 915.
 For investigation of claim of Alfred A. Green, 1877-8, 930.
 To pay claim of M. J. Kelly, 1877-8, 999.

15,777. PILOT, PORT, AND HARBOR MATTERS.

To pay claims for removing Pacific Street Wharf, 1877-8, 77.
 To pay claims for constructing Market Street slips, 1877-8, 193.
 Amending act to establish a training ship, 1877-8, 239.
 Concerning water front (confirming Water Front Line), 1877-8, 263.
 Confirming title to certain lots on water front (between Pacific and Jackson Streets), 1877-8, 417.

Authorizing certain payments by Harbor Commissioners, 1877-8, 965.
 Amending act of March 15, 1878, concerning the water front, 1880, 10 (Ban. ed. 31).
 For extension of water front line and sea wall, 1880, 132 (Ban. ed. 398).

15,778. RAILROADS AND MARINE RAILWAYS.

Fixing rates of fare on street railroads, 1877-8, 18.
 Granting certain privileges to North Beach and Mission Railroad Company, 1877-8, 218.

Granting right of way for railroad to John H. Turney and others (along bay shore to ocean), 1877-8, 818.

15,779.

ROAD LAWS AND ROADS.

Authorizing expenditure for repairs of county roads, 1877-8, 281. Extending jurisdiction of Park Commissioners over Point Lobos road, 1871-8, 967.

15,780.

SCHOOLS AND EDUCATION.

To relieve necessities of school department, 1877-8, 957.

15,781.

STREETS AND STREET IMPROVEMENTS.

Relative to street repairs (employment of laborers), 1877-8, 4.
To preserve name of Dupont Street, 1877-8, 23.
Providing for deficiency in street department fund, 1877-8, 66.
Providing for improving certain streets (Seventh Street and others), 1877-8, 231.
Establishing grade of Seventh Street, 1877-8, 292.
To pay St. Francis' Church property for damages caused by Montgomery Avenue, 1877-8, 234.
Providing for opening of Army Street, 1877-8, 270.
Ratifying order No. 1404 of board of supervisors, 1877-8, 338.
Ratifying certain orders as to work on Montgomery Avenue, 1877-8, 341.
For building draw bridge over Channel Street at Sixth Street, 1877-8, 372.
For repairing streets and sewers in case of urgent necessity, 1877-8, 341.
Confirming resolution No. 11,900 of supervisors relating to certain streets, 1877-8, 630.
Closing Ivy Avenue between Van Ness Avenue and Franklin Street, 1877-8, 882.
For opening and extending Tehama Street, 1877-8, 802.
Providing for deficiency in street department fund, 1877-8, 828.
For improvement of Van Ness Avenue, 1877-8, 829.
For macadamizing Tyler Street, 1877-8, 849.
For improvement of Pennsylvania Avenue, 1877-8, 915.
To open Valencia Street (to Mission Street), 1877-8, 923.
To establish grade of Valiejo Street, 1877-8, 931.
For grading Bay Street, 1877-8, 931.
To establish and open Montgomery Street South, 1877-8, 932.
To drain Washerwoman's Lagoon, 1877-8, 943.
In relation to accepted streets, 1877-8, 959.
To close Elm Avenue (between Larkin and Polk Streets), 1877-8, 961.
Changing grades of certain streets (near Washerwoman's Lagoon), 1877-8, 966.
Extending jurisdiction of Park Commissioners over Point Lobos Road, 1877-8, 967.

15,782.

TAXES AND ASSESSMENTS.

Legalizing assessment of taxes for 27th and 28th fiscal years, 1877-8, 338, 962. To settle certain taxes due on portions of the Lick estate, 1877-8, 426.
For collection of licenses, 1877-8, 442.

15,783.

WHARVES AND BRIDGES.

To pay claims for removing Pacific Street Wharf, 1877-8, 77. For improvement of Pennsylvania Avenue and draw-bridge over Islala Creek, 1871-8, 915.
To build draw-bridge on Sixth over Channel Street, 1877-8, 372.

San Joaquin County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,784.

Authorizing John Parrott and others to construct levees on Mokelumne River, 1877-8, 48. Fixing salary of county judge, 1877-8, 782.
To pay claim of S. G. S. Dunbar, 1877-8, 86. Providing for a county hospital, 1877-8, 922.
Regulating terms of county court, 1877-8, 154. Amending act concerning roads and highways, 1877-8, 1034.
Concerning trespassing animals, 1877-8, 176. Declaring Mokelumne River navigable, 1880, 22 (San. ed. 115).
To pay debt for school-house in Tulare School District, 1877-8, 325. Repealing act of 1870, relating to office of court commissioner, 1880, 26 (San. ed. 154).
Legalizing Swamp Land District, No. 221, 1877-8, 435. Repealing squirrel and gopher act of 1878, 1890, 120 (San. ed. 356).
Creating "West Side Irrigation District," 1877-8/468.
For destruction of squirrels and gophers, 1877-8, 773.

15,785.

CITY OF STOCKTON.

Conferring additional powers on city assessor, 1877-8, 65. Amending reincorporating act of March 27, 1872, 1877-8, 720.
Ratifying contract with Stockton Gas Company, 1877-8, 170. For erection of building at State Insane Asylum, 1880, 61 (San. ed. 234).
Ratifying ordinance No. 64, as to exchanging lands with E. B. Lane, 1877-8, 201.

San Luis Obispo County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,786.

Repealing act for destruction of certain wild animals, 1877-8, 2. Fixing compensation of district attorney, 1877-8, 431.
Reorganizing board of supervisors, 1877-8, 36. Amending act of March 20, 1876, incorporating City of San Luis Obispo, 1877-8, 633.
Extending time for publishing delinquent tax list, 1877-8, 64. In relation to recorder's fees, 1877-8, 701.
Extending time for completion of railroad to Santa Maria, 1877-8, 114. Relating to roads and streets in City of San Luis Obispo, 1877-8, 701.
Concerning fees and salaries, 1877-8, 123. Relating to inclosures and hunting on inclosed land, 1877-8, 776.
Concerning trespassing animals, 1877-8, 176. To provide a fund for repairing roads, 1877-8, 826.
Substituting bonds of City of San Luis Obispo for those of Town of San Luis Obispo, 1877-8, 237. In relation to borrowing money for Mission School District, 1877-8, 874.
Empowering trustees of Arroyo Grande School District to issue bonds, 1877-8, 342. Relating to police judge of San Luis Obispo City, 1877-8, 943.

San Mateo County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,790.

Fixing terms of courts of record, 1877-8, 33.
To fix compensation of road overseers, 1877-8, 109.
For extermination of squirrels, 1877-8, 218.
Amending act establishing pounds, 1877-8, 323.
Relating to salaries and bonds for road purposes, 1877-8, 583.
Conferring certain powers on supervisors (as to transcribing records and road fund), 1877-8, 700.

To fix terms of county and probate courts, 1877-8, 799.
Defining Twelfth Judicial District, 1877-8, 944.
For improvement of Middlefield and other roads, 1877-8, 1019.
Repealing act for construction of division fences, 1877-8, 1019.

Santa Barbara County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,798.

Extending time for publishing delinquent tax list, 1877-8, 64.
Repealing act of March 27, 1876, creating special road district, 1877-8, 108.
Extending time for completion of railroad to San Luis Obispo, 1877-8, 114.
Concerning trespassing animals, 1877-8, 176.
Conferring further powers on common council of Santa Barbara City, 1877-8, 292.
For relief of J. M. Garretson, 1877-8, 437.

Amending act incorporating city of Santa Barbara, 1877-8, 776.
For opening and improving streets in City of Santa Barbara, 1877-8, 777.
For extermination of squirrels, 1877-8, 787.
Conferring further powers on common council of Santa Barbara City, 1877-8, 954.
Repealing act of 1878 for extermination of squirrels, 1880, 7 (San. ed. 14).

Santa Clara County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,797.

As to artesian wells, 1877-8, 195.
Authorizing Town of Santa Clara to construct a main public sewer, 1877-8, 216.
Amending act of February 10, 1876, concerning officers' fees and salaries, 1877-8, 283.
Amending act of March 28, 1872, concerning streams, 1877-8, 293.

Authorizing issue of bonds to pay certain indebtedness, 1877-8, 293.
Repealing act of March 13, 1876, to protect public roads, 1877-8, 298.
Fixing fees of coroner, 1877-8, 426.
For payment of E. L. Derby for construction of Lick Avenue, 1877-8, 850.

15,798.

CITY OF SAN JOSE.

Ratifying acts of mayor and common council as to Market Plaza, 1877-8, 163.
Amending reincorporating act of March 17, 1874, 1877-8, 280, 845.
Concerning Santa Clara Avenue, 1877-8, 290.
For establishment of board of health, 1877-8, 296.

To provide for opening of new streets and extending existing streets, 1877-8, 620.
For issue of bonds to provide sewerage, 1877-8, 631.
Granting additional powers to mayor and common council, 1877-8, 682.
For erection of normal school building, 1880, 40 (San. ed. 192.)

Santa Cruz County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,801.

Legalizing assessment and levy of taxes, 1877-8, 127.
To provide for payment of certain claims for expenses of 1877-8; 1877-8, 138.
Prescribing duties and fixing salaries of supervisors, 1877-8, 155.
Incorporating Town of Felton, 1877-8, 185.
Amending Watsonville incorporation act, 1877-8, 363.
Relating to juries in justices' courts, and witnesses in courts of record, 1877-8, 564.

Relating to inclosures and hunting on inclosed land, 1877-8, 776.
Supplemental to act reincorporating City of Santa Cruz, 1877-8, 870.
To provide sewerage for Santa Cruz City, 1877-8, 999.
Repealing act of 1872 for destruction of squirrels, etc., 1880, 105 (San. ed. 344.)

Seat of Government.

An Act authorizing the appointment of certain permanent employes of the State capitol and fixing their compensation.

Approved March 30, 1874; 1873-4, 937.

[This act was amended in 1880 as follows:]

15,810. *Employes of capitol grounds—Watchman—Duty of gardener.*

Sec. 3. The board of State capitol commissioners are hereby authorized and empowered to appoint the following employes of the capitol grounds, and who

shall serve during the pleasure of said board: One gardener, eight laborers, and one watchman of the governor's mansion. The gardener shall have general control of the capitol grounds, and shall superintend and direct the planting and culture of the trees, shrubbery, plants, and grasses thereof, and preserve in order the walks, grass plats, of said grounds. He shall exercise direction and control over the laborers employed under this act to aid in taking charge of said grounds. He shall have full power to make arrests within the capitol grounds for criminal or disorderly conduct, and to perform such other duties as may be required of him by the said State capitol commissioners. [*Amendment, approved April 16, 1880; 1880, 107 (Ban. ed. 346); took effect from passage.*]

An Act to prohibit the sale of intoxicating liquor in the State capitol building.

Approved April 16, 1880; 1880, 80 (Ban. ed. 273.)

[This act is given in full, ante, 15,614.]

Shasta County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,822.

To prevent hogs running at large in Town of Redding, 1877-8, 585.
To provide assessor with sufficient deputies, 1877-8, 968.

Repealing act of 1874 changing orthography of name of Town, 1880, 24 (Ban. ed. 117.)
For removing obstructions to salmon in Pitt River, 1880, 104 (Ban. ed. 343.)

Sheep.

15,856.

[The following special and local acts were passed in 1878:

An Act to repeal an act entitled An Act restricting the herding of sheep to certain pastures in the Counties of Sonoma and Marin, passed April 21, 1857, and the acts amendatory thereof, so far as they relate to the Counties of Mendocino and Humboldt, approved February 14, 1878; 1877-8, 79.

An Act restricting the herding of sheep to certain pastures in the County of Modoc, approved March 14, 1878; 1877-8, 241.

An Act to prevent sheep and goats from being herded or running at large in certain portions of Lake County, approved March 29, 1878; 1877-8, 685.]

Sierra County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,859.

For construction of wagon road from Downieville to Forest City, 1877-8, 453.
For construction of wagon road from Sardine Creek to Mohawk Valley, in Plumas County, 1877-8, 453.

Granting leave of absence to G. W. Hughes, county assessor, 1877-8, 883.

Siskiyou County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,862.

Supplemental to act of April 22, 1861, providing for indigent sick, 1877-8, 26.
Incorporating Town of Etna, 1877-8, 261.
For relief of Klamath School District, 1877-8, 340.

For erecting school house in Scott Valley School District, 1877-8, 593.
For refunding funded debt, 1877-8, 623.
To provide a new great register, 1877-8, 693.

Solano County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,865.

Relating to office of county auditor, 1877-8, 166.
Authorizing supervisors to erect fire-proof building for records, 1877-8, 168.

For payment of debt against Fairfield School District, 1877-8, 212.
To fund certain indebtedness, 1877-8, 233.

Amending acts reincorporating city of Vallejo, 1877-8, 398. Transferring part of Sutter Island to Slough School District, 1877-8, 591.
 Providing for election of assessor, city marshal, and treasurer of Benicia, 1877-8, 400. Amending act relating to highways, 1877-8, 596.
 Amending act regulating salaries (sheriff and assessor), 1877-8, 536. To incorporate Town of Dixon, 1877-8, 712.
 To create the Sacramento River Drainage District, 1877-8, 987.

Sonoma County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,870.

Declaring Sonoma River navigable, 1877-8, 72. To provide a system of sewerage in Petaluma, 1877-8, 436.
 Regulating fees and salaries, 1877-8, 129, 328. Amending act establishing pueblo commissioners, 1877-8, 638.
 Amending act to widen English Street in Petaluma, 1877-8, 203. Re-establishing Court-house School District, 1877-8, 752.
 Amending acts concerning Petaluma board of education, 1877-8, 291.
 In relation to division fences, 1877-8, 692.

Squirrels and Gophers.

15,875.

[The following special and local acts were passed in 1878 and 1880:

An Act to provide for the extermination of squirrels in the county of San Mateo, approved March 9, 1878; 1877-8, 218.

An Act to authorize the board of supervisors of Lake County to levy and collect a special tax for the extermination of squirrels in said county, approved March 23, 1878; 1877-8, 441.

An Act to encourage the destruction of squirrels, gophers, and other wild animals in the counties of Los Angeles, Napa, Merced, San Bernardino, and Santa Cruz, approved February 13, 1872; 1871-2, 92, was repealed as to Napa County by act of March 27, 1878; 1877-8, 569, and repealed in whole by act of April 16, 1880; 1880, 105 (Ban. ed. 344).

An Act to encourage the destruction of squirrels and gophers in the County of San Joaquin, and to provide for a bounty for the same, approved March 30, 1878; 1877-8, 773, was repealed by act of April 16, 1880; 1880, 120 (Ban. ed. 385).

An Act to provide for the extermination of squirrels in certain counties [Los Angeles, Stanislaus, and Santa Barbara], approved March 30, 1876; 1877-8, 787, was repealed by act of March 6, 1880; 1880, 7 (Ban. ed. 14).

An Act to provide for the extermination of squirrels in the County of Contra Costa, approved March 30, 1878; 1877-8, 815.]

Stanislaus County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,890.

Extending time for publishing delinquent tax list, 1877-8, 64. Creating "West Side Irrigation District," 1877-8, 468.
 To protect agriculture and distrain trespassing animals, 1877-8, 164. To provide a new great register, 1877-8, 693.
 Providing means for payment of certain indebtedness, 1877-8, 257. For extermination of squirrels, 1877-8, 787.
 For construction of bridge over Tuolumne River at Modesto, 1877-8, 455. Creating Modesto Irrigation District, 1877-8, 820.
 To prevent hogs running at large in Town of Modesto, 1877-8, 585. As to salary of county assessor, 1901.
 Repealing act of 1874 for extermination of squirrels, 1880, 7 (Ban. ed. 14).
 Amending act of 1874 for building school house in Modesto School District, 1880, 33 (Ban. ed. 183).

Sutter County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,893.

Validating assessments and assessment roll for year 1877-8, 1877-8, 5. For payment of indebtedness of North Butte School District, 1877-8, 781.
 Relating to district school tax in North Butte School District, 1877-8, 86. Organizing a levee district (Bear River District No. 1), 1877-8, 782.
 Ratifying acts of trustees of Meridian School District, 1877-8, 214. Amending act concerning Levee District No. 1, 1877-8, 914.
 For cancellation of certain certificates of Register of State Land Office, 1877-8, 324. For transfer of certain funds, 1877-8, 1020.
 Reorganizing Swamp Land District No. 70, 1877-8, 580. For issuing bonds and paying indebtedness of Levee District No. 1, 1880, 30 (Ban. ed. 180).

Taxes.**15,921.**

An Act granting relief to taxpayers whose lands have been sold to the State.

Approved April 1, 1878; 1877-8, 951.

Redemption of land sold for taxes.

SECTION 1. In all cases where real estate has been sold for delinquent taxes, and the State has become the purchaser, and has not disposed of the same, the person whose estate has been sold, or his heirs, executors, administrators, or other successors in interest, shall, within one year after the passage of this act, have the right to redeem such real estate by paying to the county treasurer of the county wherein the real estate is situated, the amount of taxes due thereon at the time of such sale, with interest thereon at the rate of one per cent. a month, and also all taxes that were a lien upon said real estate at the time said taxes became delinquent, and also for each year since the sale, for which taxes on said land have not been paid, an amount equal to the percentage of State and county tax for that year, upon the value of the said real estate as assessed for the year of the sale, with interest from the first day of January of each of said years, respectively, at the same rate; and also, all costs and expenses, and fifty per cent. penalty, which may have accrued by reason of such delinquency and sale, and the costs and expenses of such redemption, as hereinafter specified. The county auditor shall, on the application of the person desiring to redeem, make an estimate of the amount to be paid, and shall give him triplicate certificates of the amount, specifying the several amounts thereof, which certificates shall be delivered to the county treasurer, together with the money; and the county treasurer shall give triplicate receipts, written or indorsed upon said certificates, to the redemptioner, who shall deliver one of said receipts and certificates to the State controller, and one to the county auditor, taking their receipts therefor. The county treasurer shall settle for the moneys received as for other State and county moneys. The county auditor shall be paid by the redemptioner, for making out said estimates, the sum of two dollars. Upon the payment of the money specified in said certificates, and the giving of the receipts aforesaid, by the treasurer, controller, and auditor, any deed that may have been made to the State shall become null and void, and all right, title, and interest acquired by the State, under or by virtue of the tax sale, shall cease and determine. The receipts of the county treasurer, controller, and county auditor may be recorded in the recorder's office of the county in which said real estate is situated, in the book of deeds, and the record thereof shall have the same effect as that of a deed of conveyance. This act shall not apply to school lands, where the full amount of one dollar and twenty-five cents (\$1.25) per acre has not been paid to the State therefor.

SEC. 2. This act shall take effect from and after its passage.

An Act granting relief to taxpayers whose lands have been sold to the State.

Approved March 15, 1880; 1880, 9 (Ban. ed. 29).

Redemption of real estate sold for delinquent taxes.

SECTION 1. In all cases where real estate has been sold for delinquent taxes, and the State has become the purchaser, and has not disposed of the same, the person whose estate has been sold, or his heirs, executors, administrators, or other successors in interest, shall, within one year after the passage of this act, have the right to redeem such real estate by paying to the county treasurer of

the county wherein the real estate is situated, the amount of taxes due thereon at the time of said sale, with interest thereon at the rate of seven per cent. per annum, and also all taxes that were a lien upon said real estate at the time said taxes became delinquent, and also for each year since the sale for which taxes on said land have not been paid, an amount equal to the percentage of State and county tax for that year upon the value of the said real estate assessed for the year of the sale, with interest from the first day of January of each of said years, respectively, at the same rate; and also, all costs and expenses, and fifty per cent. penalty, which may have accrued by reason of such delinquency and sale, and the costs and expenses of such redemption, as hereinafter specified.

DUTY OF AUDITOR.

The county auditor shall, on the application of the person desiring to redeem, make an estimate of the amount to be paid, and shall give him triplicate certificates of the amount, specifying the several amounts thereof, which certificates shall be delivered to the county treasurer, together with the money, and the county treasurer shall give triplicate receipts, written or indorsed upon said certificates, to the redemptioner, who shall deliver one of the said receipts to the State controller, and one to the county auditor, taking their receipts therefor. The county treasurer shall settle for the moneys received as for other State and county moneys.

FEE.

The county auditor shall be paid by the redemptioner for making out said estimates, the sum of two dollars. Upon the payment of the money specified in said certificate and the giving of the receipts aforesaid by the treasurer, controller, and auditor, any deed that may have been made to the State shall become null and void, and all right, title, and interest acquired by the State under or by the virtue of the tax sale shall cease and determine. The receipts of the county treasurer, controller, and county auditor may be recorded in the recorder's office of the county in which said real estate is situated, in the book of deeds, and the record thereof shall have the same effect as that of a deed of reconveyance. This act shall not apply to school lands, when the full amount of one dollar and twenty-five cents per acre has not been paid to the State thereof.

Sec. 2. This act shall take effect from and after its passage.

15,945.

[The following special acts may be referred to:

An Act to amend an act entitled An Act to enforce the collection of poll taxes in the County of Calaveras, approved March 20, 1874, approved January 24, 1878; 1877-8, 35.

An Act to extend the time for publishing the delinquent tax list in the Counties of San Luis Obispo, Santa Barbara, San Benito, Ventura, Fresno, Tulare, Kern, Merced, Mariposa, Inyo, and Stanislaus, approved January 28, 1878; 1877-8, 64.

An Act to levy taxes for county purposes and to provide for the redemption of the bonded indebtedness of El Dorado County, approved February 13, 1878; 1877-8, 75.

An Act legalizing the assessment book and delinquent list in Los Angeles County, approved February 21, 1878; 1877-8, 103.

An Act legalizing the State and county tax and assessments in the county of Nevada, in 1877 and 1878, approved March 9, 1878; 1877-8, 197.

An Act in relation to road, poll, and property tax in the Town of Crescent City, in Del Norte County, approved March 9, 1878; 1877-8, 204.

An Act authorizing a tax for the payment of grand and trial jurors in the County of Alpine, approved March 9, 1878; 1877-8, 215.

An Act to legalize the assessment of taxes in the City and County of San Francisco, and to ratify and confirm a resolution of the board of supervisors of the City and County of San Francisco, approved March 19, 1878; 1877-8, 338.

An Act to facilitate and equalize the collection of licenses in the City and County of San Francisco, approved March 23, 1878; 1877-8, 442.

An Act to repeal an act entitled An Act to extend the time for selling property for delinquent taxes in the County of Alpine, approved March 22, 1876; approved March 30, 1878; 1877-8, 783.

An Act regulating the collection of poll tax in Merced County, approved March 30, 1878; 1877-8, 837.]

Tehama County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

15,949.

Repealing act to prevent hogs running at large in Red Bluff and Tehama, 1877-8, 79.
Amending act incorporating Town of Red Bluff, 1877-8, 116.
Concerning road poll tax and hospital poll tax, 1877-8, 211.

Concerning trespassing animals, 1877-8, 176.
Concerning construction of bridge across Sacramento River, 1877-8, 532.
In relation to distribution of lots in Red Bluff by county judge, 1877-8, 603.

Training Ship.

An Act to establish and maintain a training-ship in the City and County of San Francisco.

Approved February 15, 1876; 1875-6, 54.

[This act was amended in 1878, as follows:]

16,009. *Appropriation authorized.*

SEC. 5. The board of supervisors of said city and county is hereby authorized and required to direct to be paid out of the general fund of said city and county, for the support and maintenance of said training ship, a sum not exceeding twenty-five thousand dollars per annum, and an additional sum of twenty-five thousand dollars per annum is hereby appropriated out of the State treasury for the support and maintenance of said training ship, and the State controller is hereby required to draw his warrant in favor of, and the State treasurer to pay to the City and County of San Francisco the said sum of twenty-five thousand dollars per annum for the purposes aforesaid, and the auditor of said city and county is hereby required to audit all claims passed by said board in pursuance of the provisions of this act, and the treasurer of said city and county is hereby directed to pay the same. [*Amendment, approved March 13, 1878; 1873-4, 233; took effect from passage.*]

An Act to amend the foregoing act.

Approved March 13, 1878; 1877-8, 233.

16,013.

[Section 1 contains the amendment to section 5 above given.]

Accommodations provided.

SEC. 2. The said board of supervisors shall provide accommodations on said training ship for not less than two hundred boys at all times, and shall provide officers and instructors sufficient for their government.

Number of boys admitted.

SEC. 3. Of the total number of boys provided for by this act, one hundred may be admitted from the City and County of San Francisco, and one hundred from the other counties of the State of California, as may be determined by an advisory board, provided for in the next succeeding section of this act.

Advisory board.

SEC. 4. An advisory board, consisting of three members, to serve without compensation, shall be appointed by the governor of the State, at his earliest convenience after the passage of this act, to which board a report shall be made quarterly of the condition and operation of said training ship, by said standing committee of said board of supervisors. It shall be the duty of said advisory board to inspect said training ship from time to time, as may be necessary, and to make such apportionment and such changes in the number of boys apportioned to each county (the County of San Francisco excepted), as may be found necessary to secure to the several counties of the State the full number of boys herein provided for. The population of each county shall form the basis of said apportionment.

SEC. 5. This act shall take effect and be in force from and after its passage.

Trespassing Animals.

16,056.

[The following special acts were passed in 1878:

An Act to protect agriculture and to provide for the distraining of trespassing animals in the Counties of Los Angeles and Stanislaus, approved March 4, 1878; 1877-8, 164.

An Act concerning trespassing of animals upon private lands in certain counties in the State of California [certain portions of San Bernardino, El Dorado, and Tehama Counties, and to Colusa, Humboldt, Merced, and Sacramento counties], approved March 7, 1878; 1877-8, 176.

An Act amendatory of an act entitled An Act to protect agriculture and to prevent trespassing of animals upon private property in the county of San Diego, approved March 24, 1876, approved March 14, 1878; 1877-8, 245.

An Act to prevent the trespassing of animals upon private property in the County of Yolo, approved March 20, 1878; 1877-8, 360.

An Act to prevent the trespassing of goats on inclosed lands in Amador County, approved March 26, 1878; 1877-8, 536.

An Act to repeal an act entitled An Act to protect agriculture in the County of El Dorado, approved March 20, 1876; approved March 26, 1878; 1877-8, 557.]

Trinity County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

16,060.

To prevent hogs and goats running at large in Weaver-ville, 1877-8, 83.

To create additional contingent fund, 1877-8, 184.
Concerning hogs running at large, 1877-8, 184.

Tulare County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

16,063.

Extending time for publishing delinquent tax list, 1877-8, 64.

As to offices of county clerk and recorder, 1877-8, 104.

For relief of Charles Dukes and others, 1877-8, 193.

Funding indebtedness, 1877-8, 198.

To quiet title to town lots in Visalia City, 1877-8, 263.

To establish a board of health, 1877-8, 558.

To regulate traveling fees of sheriff, 559.

To provide a new great register, 1877-8, 698.

To attach a portion of King's River School Dist 1 to Kingsbury School District, 1877-8, 1010.

Tuolumne County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

16,066.

To provide for care and maintenance of indigent sick, Reincorporating City of Sonora, 1877-8, 23, 467.
1877-8, 696.

University of California.

16,077.

An Act to consolidate certain funds and to create therefrom a permanent endowment for the University of California, of which the interest only shall be used by the board of regents to meet current expenses.

Approved March 19, 1878; 1877-8, 337.

[This act is given in full ante, 1415.]

An Act to create a commission to examine and report the condition of certain funds.

Approved April 1, 1878; 1877-8, 928.

[This act appointed the controller, surveyor-general, attorney-general, and treasurer of State a commission to examine into and report concerning the funds of the university.]

An Act to appropriate twenty-five thousand dollars, to be used conjointly with a like sum of twenty-five thousand dollars, donated by H. D. Bacon for the construction of a building to be erected on the State university grounds in Alameda County for a library and art gallery.

Approved April 1, 1878; 1877-8, 930.

[This act authorized the appropriation referred to in the title.]

Ventura County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

16,080.

Providing for construction of Casitas Pass Road, 1877-8, 19.

Extending time for publishing delinquent tax list, 1877-8, 64.

Fixing bonds of county officers, 1877-8, 334.

Authorizing trustees of San Buenaventura School District to issue bonds, 1877-8, 296.

Amending act reincorporating town of San Buenaventura, 1877-8, 637.

Viticulture.

An Act for the promotion of the viticultural industries of the State.

Approved April 15, 1880; 1880, 52 (San. ed. 224).

16,081. *Board of viticultural commissioners, how constituted.*

SECTION 1. There shall be appointed by the governor a board of State viticultural commissioners, to consist of nine members, two to be appointed from the State at large, and one to be appointed from each of the seven viticultural districts, which shall be constituted as follows:

First—The Sonoma District, which shall include the Counties of Sonoma, Marin, Lake, Mendocino, Humboldt, Del Norte, Trinity, and Siskiyou.

Second—The Napa District, which shall include the Counties of Napa, Solano, and Contra Costa.

Third—The San Francisco District, which shall include the City and County of San Francisco, and the Counties of San Mateo, Alameda, Santa Clara, Santa Cruz, San Benito, and Monterey.

Fourth—The Los Angeles District, which shall include the Counties of Los Angeles, Ventura, Santa Barbara, San Luis Obispo, San Bernardino, and San Diego.

Fifth—The Sacramento District, which shall include the Counties of Sacramento, Yolo, Sutter, Colusa, Butte, Tehama, and Shasta.

Sixth—The San Joaquin District, which shall include the Counties of San Joaquin, Stanislaus, Merced, Fresno, Tulare, and Kern.

Seventh—The El Dorado District, which shall include the Counties of El Dorado, Amador, Calaveras, Tuolumne, Mariposa, Placer, Nevada, Yuba, Sierra, Plumas, Lassen, Modoc, Alpine, Mono, and Inyo.

Residence—Terms.

SEC. 2. The commissioners, excepting the two appointed from the State at large, shall be residents of the districts from which they are appointed, and shall be specially qualified by practical experience and study in connection with the industries dependent upon the culture of the grapevine in this State. They shall each hold office for the term of four years, excepting that, of the nine first appointed, four, to be determined by lot, shall retire at the end of two years, when their successors shall be appointed by the governor.

Officers.

SEC. 3. The board shall elect from among their own number a president, a vice-president, and a treasurer, and they shall appoint a secretary, who shall not be one of their number, and whose salary shall not exceed one hundred dollars per month. And the board shall determine and fix the amount of bonds that shall be given by the treasurer and secretary for the faithful performance of their duties.

Duties.

SEC. 4. It shall be the duty of the board to meet semi-annually to consult and to adopt such measures as may best promote the progress of the viticultural industries of the State. It shall be their duty to select and appoint competent and qualified persons to deliver at least one lecture each year in each of the viticultural districts named in section one of this act, for the purpose of illustrating practical viticultural topics, and imparting instruction in methods of culture, pruning, fertilizing, fermenting, distilling, and rectifying, treating diseases of the vine, raisin drying, etc., for the better instruction of the people interested therein, as the requirements of each district may show to be necessary and important, and to disseminate all such useful knowledge relating to viticulture by printed documents or correspondence as may be within their power to do. The board shall devote especial attention to the study of the phylloxera and other diseases of the vine, and shall make such recommendations in their semi-annual reports as they may deem best for the protection of vineyards.

Compensation.

SEC. 5. The commissioners constituting the board shall serve without compensation, and shall be allowed only their actual transportation expenses to and from their places of residence when attending the semi-annual meetings of the board.

Location of office.

SEC. 6. The office of the board shall be in the City of San Francisco, and shall be kept open to the public, subject to the rules of the board, every day, excepting legal holidays, and shall be in charge of the secretary during the absence of the board.

Duties of secretary.

SEC. 7. It shall be the duty of the secretary to attend all regular meetings of the board, and to preserve records of proceedings and correspondence; to collect books, pamphlets, periodicals, and other documents containing valuable information relating to viticulture, and to preserve the same; to collect statistics and other information, showing the actual condition and progress of viticulture in this State and elsewhere; to collect information concerning lands suitable for viticulture, and to impart to the public, upon proper demands be-

ing made, information concerning the localities of such lands, prices, cost of cultivation, and means of transportation; provided, that he shall receive no fees for such services; to correspond with agricultural and viticultural societies, colleges, and schools of agriculture, and other persons and bodies, political or private, and to disseminate information, printed or otherwise, as he may be directed by the board of commissioners; and to prepare, as required by the board, semi-annual reports for publication.

Duty of board of regents of university of California.

SEC. 8. And for the further promotion of viticultural interests, it shall be the duty of the board of regents of the university of California to provide for special instruction to be given by the agricultural department of the university in the arts and sciences pertaining to viticulture, the theory and practice of fermentation, distillation, and rectification, and the management of cellars, to be illustrated by practical experiments with appropriate apparatus, also, to direct the professor of agriculture, or his assistant, to make personal examinations and reports upon the different sections of the State adapted to viticulture; to examine and report upon the woods of the State procurable for cooperage, and the best methods of treating the same; and to make analysis of soils, wines, brandies, and grapes, at the proper request of citizens of the State; also, to prepare a comprehensive analysis of the various wines and spirits produced from grapes, showing their alcoholic strength and other properties, and especially any deleterious adulterations that may be discovered. The regents shall also cause to be prepared, printed, and distributed to the public, quarterly reports of the professor in charge of this work relating to experiments undertaken, scientific discoveries, the progress and treatment of the phylloxera and other diseases of the vine, and such other useful information as may be given for the better instruction of viticulturists.

Donations.

SEC. 9. The board of regents of the university shall be authorized to receive and accept donations of lands suitable for experimental vineyards and stations, and shall submit in their next annual report an economical plan for conducting such vineyards, and for the propagation and distribution of specimens of all known and valuable varieties of grape vines.

Appropriation.

SEC. 10. There is hereby appropriated, for the purposes mentioned in this act, the sum of seven thousand dollars, to be apportioned as follows: For the necessary and contingent expenses of the board of State viticultural commissioners, four thousand dollars, and for the University of California, three thousand dollars; and the State controller shall draw his warrants upon the State treasurer in favor of the treasurers of the said board of State viticultural commissioners, and of the university of California, for the amounts of four thousand and three thousand dollars respectively, as hereby appropriated, upon proper demand being made for the same; provided, that the said board of State viticultural commissioners shall, in the month of December, submit to the governor annual statements, duly verified by the oaths of the president and treasurer, and attested by the secretary of said board, showing in detail the manner in which moneys received from the State have been expended, and also the amount remaining unexpended, together with an estimate of expenses for the ensuing year, beginning on the first day of July next thereafter.

SEC. 11. This act shall take effect and be in force from and after its passage.

An Act for the better protection of fruit trees and vines.

Approved April 9, 1880; 1880, 26 (Rev. ed. 187).

[This act is given in full, ante, 15,346.]

Yolo County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

16,107.

Amending act reincorporating Woodland, 1877-8, 84, 446.
 Relating to Swamp Land District No. 397, 1877-8, 250.
 To prevent trespassing of animals upon private property, 1877-8, 380.
 Providing a new Great Register, 1877-8, 555.
 Amending act relating to fees and salaries, 1877-8, 637.
 To pay claim of F. E. Baker, 1877-8, 748.

Authorizing levy of tax for county purposes, 1877-8, 843.
 To quiet title to certain land (of George Herget), 1877-8, 943.
 To create the Sacramento River Drainage District, 1877-8, 967.
 For distribution of school moneys, 1877-8, 1006.
 For drainage of certain lands, 1877-8, 1037.

Yuba County.

REFERENCES TO SPECIAL AND LOCAL ACTS.

16,114.

Relating to road overseers and road poll taxes, 1877-8, 157.
 To provide for transcribing certain records, 1877-8, 212.
 Amending Wheatland incorporation act, 1877-8, 441.
 Amending act reincorporating Marysville, 1877-8, 593.

Organizing a levee district (Bear River District No. 1) 1877-8, 732.
 Concerning fees of justices of the peace, 1877-8, 738.
 To incorporate Town of Yuba City, 1877-8, 783.
 Amending act for protection of lands from overflow, 1877-8, 783.

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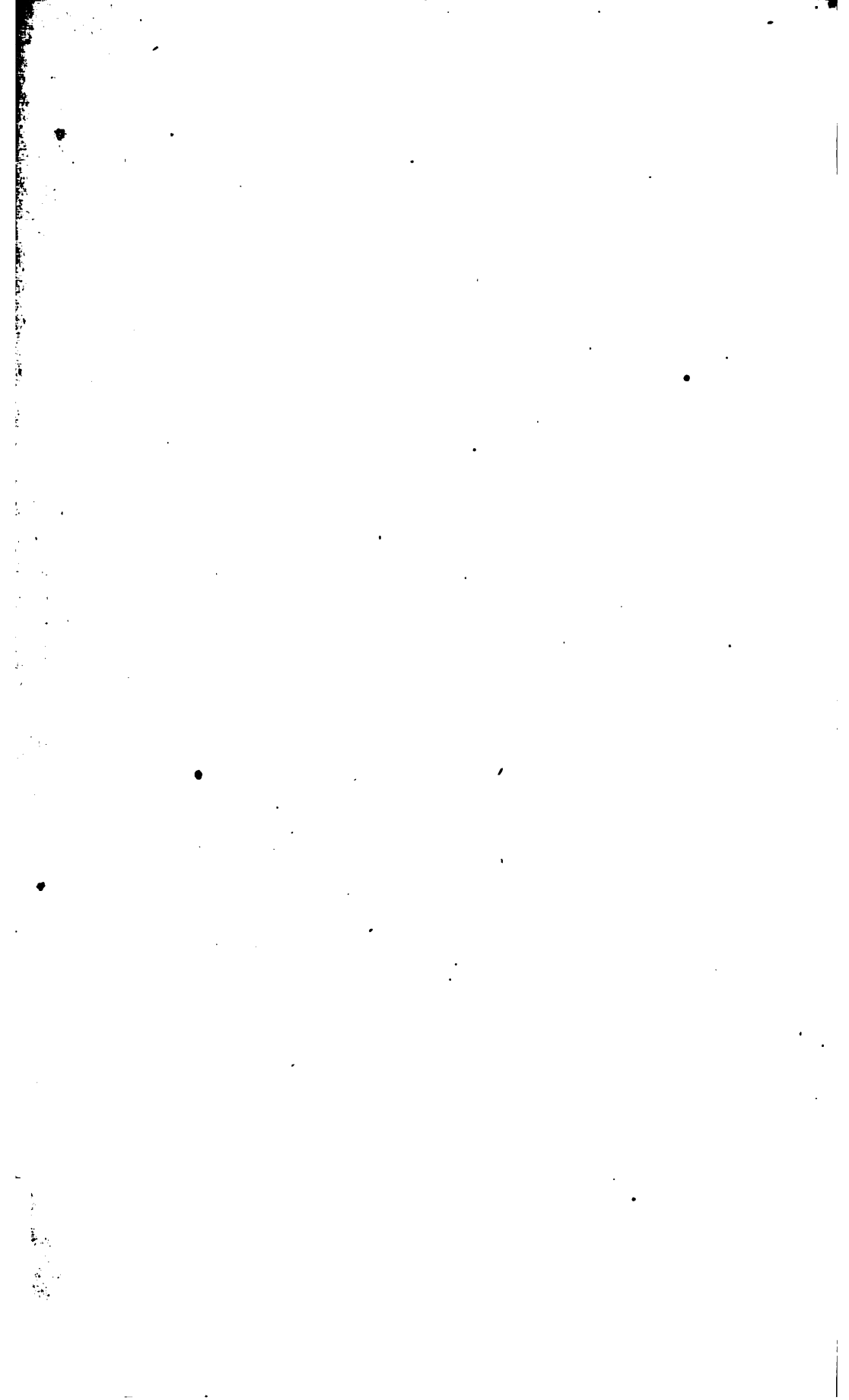
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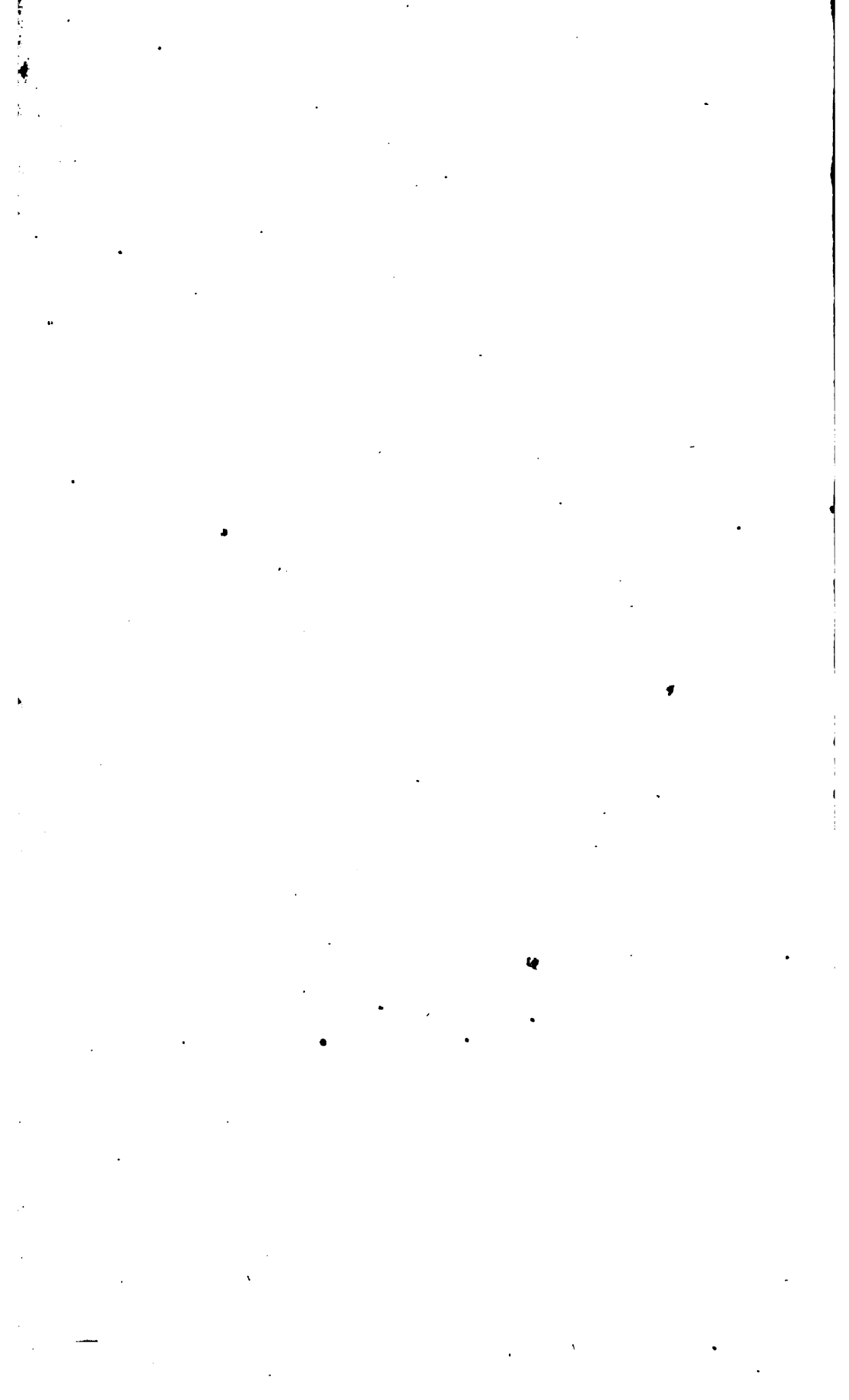
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